

1 UNITED STATES BANKRUPTCY COURT
2 WESTERN DISTRICT OF NEW YORK

3 _____
4 IN RE: Case No: 20-10322 (CLB)
5 THE DIOCESE OF BUFFALO, N.Y.,
6 Debtor. Chapter 11

7 _____
8 THE DIOCESE OF BUFFALO, N.Y.,
9 Plaintiff, Adv. No: 20-01016
10 v.
11 JMH 100 DOE, ET AL., Chapter 11
12 Defendants.

13 _____
14 DEPOSITION

15 _____
16
17 WITNESS: MELISSA POTZLER
18 DATE: Wednesday, November 15, 2023
19 START TIME: 11:00 a.m.
20 END TIME: 2:17 P.m.
21 REMOTE LOCATION: Remote Legal platform
22 REPORTER: Jaime Godinez, CER-1260
23 JOB NO.: 21028

24
25

1 A P P E A R A N C E S

2

3 BOND, SCHOENECK & KING

4 One Lincoln Center

5 Syracuse, New York 13202

6 By: BRENDAN SHEEHAN, ESQUIRE

7 By: CHARLES SULLIVAN, ESQUIRE

8 By: JUSTIN KRELL, ESQUIRE

9 bsheehan@bsk.com

10 Appearing for The Diocese of Buffalo, N.Y.

11

12 PACHULSKI STANG ZIEHL & JONES LLP

13 10100 Santa Monica Boulevard, 13th Floor

14 Los Angeles, California 90067

15 By: BRITTANY M. MICHAEL, ESQUIRE

16 By: IAIN A.W. NASATIR, ESQUIRE

17 By: ILAN SCHARF, ESQUIRE

18 bmichael@pszjlaw.com

19 Appearing for Official Committee of Unsecured

20 Creditors

21

22 ALSO PRESENT:

23 Lisa Petras, Paralegal, Pachulski Stang

24 Sarah Schroeter, Notary Public

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I N D E X O F T E S T I M O N Y

EXAMINATION OF MELISSA POTZLER:

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(Available for download)

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FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties that the presence of the Referee be waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved until the time of trial;

IT IS FURTHER STIPULATED AND AGREED that this deposition may be utilized for all purposes as provided by the Federal Rules of Civil Procedure;

AND FURTHER STIPULATED AND AGREED that all rights provided to all parties by the Federal Rules of Civil Procedure shall not be deemed waived and the appropriate sections of the Federal Rules of Civil Procedure shall be controlling with respect thereto.

1 FEDERAL REMOTE STIPULATIONS

2

3 IT IS HEREBY STIPULATED, by and between the
4 attorneys of record for all parties to the above-
5 entitled action, that:

6 Pursuant to Rule 30(b)(4) of the Federal Rules
7 of Civil Procedure, this deposition will be conducted by
8 remote videoconference with the oath being administered
9 remotely and a court reporter creating an accurate
10 written record; that, if necessary, the parties agree
11 that each witness can be identified with picture
12 identification;

13 No attorney, nor any party or witness, shall
14 capture any still photographs, nor record, by video or
15 audio, any part of these deposition proceedings;

16 Each attorney agrees to instruct their witness
17 that there is to be no communication with anyone outside
18 of the identified and participating group, by chat,
19 text, email, or other means during the deposition;

20 There shall be no other person in the room
21 with the witness during their deposition;

22 Any phone or electronic device in the room
23 with a witness shall be identified and not read,
24 referred to, or otherwise used during the witness'
25 deposition, unless agreed to by all counsel on record.

1 P R O C E E D I N G S

2 THE REPORTER: Good morning. We are now
3 on the record. Today's date is November 15th, 2023, and
4 the time is approximately 11:00 a.m. Eastern. My name
5 is Jaime Godinez, and I'm the officer designated by
6 Remote Legal, 11 Broadway, Suite 456, New York, New
7 York, to take the record of this proceeding.

8 This is the deposition of Melissa
9 Potzler, taken in the matter of In Re: The Diocese of
10 Buffalo, New York, Case Number 20-10322, filed in the
11 United States Bankruptcy Court, Western District of New
12 York.

13 Would all counsel please identify
14 themselves for the record, starting with the noticing
15 attorney, and state who they represent.

16 MS. MICHAEL: Hello. I am Brittany
17 Michael, from the law firm, Pachulski Stang Ziehl &
18 Jones, and I represent the Committee of Unsecured
19 Creditors.

20 THE REPORTER: And Mr. Sheehan, can you
21 state your appearance.

22 MR. SHEEHAN: Yes. Good morning.
23 Brendan Sheehan of Bond, Schoeneck & King, on behalf of
24 The Diocese of Buffalo, and here with me is Charles
25 Sullivan.

1 THE REPORTER: Thank you. And would all
2 observers please identify themselves for the record.

3 MR. NASATIR: Iaian Nasatir, Pachulski
4 Stang, for the Committee.

5 THE REPORTER: And Ms. Michael, could you
6 please identify the other attorneys for the record,
7 please.

8 MS. MICHAEL: Yes. Ilan Scharf, also
9 Pachulski Stang, for the Committee. And Lisa Petrus,
10 who is a paralegal at Pachulski Stang, for the
11 Committee.

12 THE REPORTER: Thank you so much.
13 And Mr. Sheehan, could you please have
14 Mr. Sullivan's appearance stated on the record.

15 MR. SULLIVAN: Yes. Charles Sullivan,
16 Bond, Schoeneck & King, one of the attorneys for The
17 Diocese of Buffalo.

18 THE REPORTER: Thank you.
19 And will the notary please identify
20 herself for the record.

21 THE NOTARY PUBLIC: Good morning. My
22 name is Sarah Schroeter, I'm a notary public for Remote
23 Legal.

24 THE REPORTER: Thank you.

25 This deposition is being taken remotely

1 and is being conducted pursuant to the procedural rules
2 and laws of the state which governs this matter. As
3 such, all parties agree to this means of capturing the
4 official record, which may include recording by audio
5 and/or audiovisual means, and agree not to oppose
6 admission of this proceeding on the basis of the
7 personnel, or method by which the testimony in this
8 proceeding was captured.

9 Do the parties so stipulate?

10 MS. MICHAEL: Yes, on behalf of the
11 Committee.

12 THE REPORTER: And Mr. Sheehan?

13 MR. SHEEHAN: Yes.

14 THE REPORTER: Thank you.

15 Would the notary please swear in the
16 witness.

17 THE NOTARY PUBLIC: Good morning, Ms.
18 Potzler.

19 MS. POTZLER: Good morning.

20 THE NOTARY PUBLIC: Would you please
21 state and spell your name for the record.

22 MS. POTZLER: Yes. It's Melissa Potzler,
23 M-E-L-I-S-S-A, P, as in Peter, O-T, as in Tom, Z, as in
24 zebra, L-E-R.

25 THE NOTARY PUBLIC: Thank you. Ms.

1 Potzler, would you please raise your right hand. Do you
2 swear or affirm that the testimony you are about to give
3 will be the truth, the whole truth, and nothing but the
4 truth?

5 MS. POTZLER: I do.

6 WHEREUPON,

7 M E L I S S A P O T Z L E R

8 having been called as a witness, being duly sworn by the
9 notary public present, testified as follows:

10 THE NOTARY PUBLIC: Thank you.

11 THE REPORTER: Thank you so much.

12 Counsel, you may begin.

13 MS. MICHAEL: Thank you.

14 EXAMINATION

15 BY MS. MICHAEL:

16 Q Good morning, Ms. Potzler.

17 A Good morning.

18 Q Have you ever been deposed before?

19 A I have.

20 Q How many times?

21 A Just once.

22 Q Apologies. I think the audio cut out there.

23 Do you mind repeating that last answer?

24 A I've been deposed once before.

25 MS. MICHAEL: Are others hearing her

1 response? I'm not getting any audio.

2 THE REPORTER: This is the reporter. I'm
3 hearing her response.

4 MS. MICHAEL: I'm not hearing you,
5 either.

6 THE REPORTER: Okay. Just give me one
7 second. Let me go ahead and go off the record. The
8 time is now 11:04 a.m. Eastern, and we're off the
9 record.

10 (Off the record.)

11 THE REPORTER: The time is now 11:05 a.m.
12 Eastern, and we're back on the record.

13 Mr. Krell, can you please state your
14 appearance on the record.

15 MR. KRELL: Sure. Justin Krell, attorney
16 for Bond, Schoeneck & King.

17 THE REPORTER: Thank you so much.

18 Ms. Michael, you may proceed.

19 MS. MICHAEL: Thank you. Apologies for
20 that.

21 BY MS. MICHAEL:

22 Q I believe the last question that I did not
23 hear the answer to was, how many times have you been
24 deposed?

25 A I've been deposed once.

1 Q Okay. And do you understand that you are
2 under oath?

3 A Yes, I do.

4 Q And do you understand that when you're under
5 oath your testimony is the same as if you were
6 testifying in court?

7 A Yes.

8 Q And because you are under oath, you have an
9 obligation to tell the truth. Do you understand that?

10 A Yes.

11 Q Everything we say here is on the record and
12 will appear in a written transcript. Have you seen a
13 deposition transcript before?

14 A Yes.

15 Q Okay. A transcript will be provided to you,
16 and you will have an opportunity to review it, make
17 changes to your testimony, as recorded in the
18 transcript, before the expiration of the allotted time
19 for your review and signature. Do you understand that?

20 A Yes.

21 Q If you make changes to your transcript, that
22 is something we may comment on at the hearing on this
23 matter. Do you understand that?

24 A Yes.

25 Q And it's important, as we get going, that you

1 understand my questions. If you do not understand a
2 question, will you let me know?

3 A Yes, I will.

4 Q It is also important that we have a clear
5 transcript, so that we do not talk over each other. Do
6 you understand that?

7 A Yes.

8 Q Are you comfortable that you understand the
9 deposition process?

10 A Yes, I am.

11 Q And you are testifying in this matter as a
12 fact witness, not an expert witness, correct?

13 A Correct.

14 Q All right. And where are you located?

15 A Currently, or where do I work?

16 Q Currently.

17 A I'm at the offices of Bond, Schoeneck & King
18 on Delaware Avenue in Buffalo, New York.

19 Q And who is in the room with you?

20 A Brendan Sheehan and Charles Sullivan.

21 Q Is there anyone in the room that we cannot see
22 on the video screen?

23 A No, there is not.

24 Q And do you understand that you are not allowed
25 to contact anyone else about the subject of this

1 deposition after you have been sworn?

2 A Yes.

3 Q And do you understand that it is my position
4 that if you do have discussions with anyone else,
5 including your counsel, now that you've been sworn in,
6 I'm entitled to inquire about those communications?

7 A Yes.

8 Q And is there any reason you cannot testify
9 competently and truthfully today?

10 A No, there's not.

11 Q Great. And what's your educational
12 background?

13 A I have a bachelor's degree, a JD degree, and
14 an LLM degree.

15 Q And where do you have those degrees from?

16 A Bachelor's degree is from the University of
17 South Carolina. The JD and LLM are from the University
18 of Buffalo.

19 Q And how are you currently employed?

20 A I am the chancellor, chief compliance officer,
21 child protection policy coordinator, and in-house
22 counsel for The Diocese of Buffalo.

23 Q That's a lot of positions.

24 A Yes.

25 Q And how long have you been in your current

1 role?

2 A About 11 months.

3 Q Okay. And did you hold any positions at The
4 Diocese of Buffalo prior to your current role?

5 A Not at the Diocese central offices. I did
6 work for a diocesan parish for 10 years.

7 Q And what parish is that?

8 A Nativity of our Lord in Orchard Park, New
9 York.

10 Q And what was your role with that parish?

11 A I was the parish life coordinator, so I
12 coordinated the volunteers, any events that we had. I
13 was responsible for social media, the bulletins, the
14 website.

15 Q And was that a paid or voluntary position?

16 A It was paid.

17 Q And have you ever been a party to a lawsuit
18 personally?

19 A I have been a party in an asbestos case.

20 Q And have you ever testified in court?

21 A No.

22 Q And you said earlier that you've been deposed
23 once before. What was the subject matter of that
24 deposition?

25 A I was a witness in a personal injury car

1 accident.

2 Q And have you ever been subject to a
3 disciplinary proceeding?

4 A No.

5 Q Have you ever had a grievance filed against
6 you?

7 A No.

8 Q And what did you review -- did you review any
9 materials to prepare for your deposition today?

10 A I reviewed some of the information from the
11 IRCP program. That's it, actually.

12 Q What materials from the IRCP program did you
13 review?

14 A There was a write-up of the whole program that
15 was meant to summarize and finalize everything that
16 occurred. So when I started at the Diocese they gave me
17 that, just so I would know what happened in the past.

18 Q And did you do anything else to prepare for
19 your deposition?

20 A I did speak with our attorneys, as a
21 deposition prep. That's it.

22 Q And going back, you said you worked, prior to
23 your employment with the Diocese, with a parish for 10
24 years?

25 A Correct.

1 Q Was that the 10 years immediately preceding
2 your starting this job?

3 A Yes.

4 Q And have you had any other employment since --

5 A Yes, I -- I'm sorry.

6 Q Go ahead.

7 A Yeah. For the -- before the 10 years at the
8 parish, I worked for eight years as a defense attorney
9 with the 18B Panel. And I worked for the Erie County
10 District Attorney's office prior to that.

11 Q And how long did you work at the Erie County
12 District Attorney's office?

13 A One year exactly.

14 Q And did you have any other jobs post-law
15 school, other than those that you've already stated?

16 A No.

17 Q And prior to your employment with either the
18 parish or the Diocese, did you have any other
19 relationship with the Diocese?

20 A No, just as a faithful Catholic. Regular
21 parishioner, volunteer at my church.

22 Q All right. Now turning to the state court
23 actions against the Diocese, have you had any
24 experience, prior to the bankruptcy filing, working on
25 any of the Child Victim's Act which I'm going to refer

1 to as CVA going forward? Do you have any experience
2 working on the CVA cases prior to the bankruptcy?

3 A No.

4 Q Have you reviewed any of the pleadings in the
5 CVA cases?

6 A I have some of them, yes.

7 Q Okay. Which ones have you reviewed?

8 A The ones that were against my personal parish.
9 When I worked there I looked them up on E-file and
10 reviewed those. Not as a diocesan employee, as the
11 parish employee.

12 Q Have you reviewed any other CVA actions?

13 A I review them regularly in my current
14 position.

15 Q How many have you reviewed in your current
16 position?

17 A I wouldn't even hazard a guess, because it
18 just -- when something comes up, I'll go in and look.
19 So I would say maybe -- maybe 10 of them. The actual
20 pleadings, I mean, on E-file.

21 Q Right.

22 A Yeah.

23 Q Like the complaints?

24 A Yes.

25 Q And what about those 10 made you need to

1 review those?

2 MR. SHEEHAN: Objection, to the extent
3 that answering would call for any privileged
4 information, I'll instruct you not to answer. If you
5 can answer without divulging any privileged
6 information, you may do so.

7 THE WITNESS: Generally speaking, if a
8 question came up about a specific case, they know that
9 I'm the one that can get access to it, and know how to
10 get in there, that's when I would look it up. It would
11 either come up during the mediation, or concerning a
12 specific priest, or a complainant. That's what would
13 cause me to need to look it up.

14 BY MS. MICHAEL:

15 Q Okay. Do you know how many CVA actions there
16 are currently in which the Diocese is a defendant?

17 A Approximately 891.

18 Q Apologies. Let me repeat my question. Do you
19 know how many CVA actions are currently pending in which
20 the Diocese is a named defendant?

21 A I do not know that. No.

22 Q And do you know that of 891 CVA actions
23 against related entities, the Diocese is not a named
24 defendant in all of those actions?

25 MR. SHEEHAN: Objection to form. You can

1 answer if you know.

2 THE WITNESS: I don't know.

3 BY MS. MICHAEL:

4 Q And have you reviewed any of the priest files
5 related to any of those CVA actions?

6 A Yes. Many, many of them.

7 Q All right. Have you reviewed priest files
8 related to all of the CVA actions?

9 A No, I cannot say all of them. No.

10 Q And are you generally familiar with the claims
11 that are asserted against parishes in those CVA actions?

12 A Generally, yes.

13 Q And against schools?

14 A Not so much with the schools.

15 Q What about summer camps?

16 A No.

17 MS. MICHAEL: And now, turning to the
18 documents now. This is my first time using this
19 platform. It seems pretty -- kind of -- pretty
20 intuitive, but hopefully I do this right.

21 So I am now going to share and mark as Exhibit
22 1 Ms. Potzler's declaration.

23 (Exhibit 1 marked for identification.)

24 MS. MICHAEL: How do -- I'm missing the
25 button to mark it as Exhibit 1.

1 THE REPORTER: I went ahead and marked
2 that for you.

3 MS. MICHAEL: Okay. Great. Thank you.

4 BY MS. MICHAEL:

5 Q Okay. Ms. Potzler, can you describe the
6 process involved in preparing this declaration?

7 A We had legal discussions. I reviewed, like I
8 said, the IRCP program summary. And then I read over
9 the -- the declaration, and we made, you know, slight
10 modifications, and I signed it.

11 Q And who did you work with in preparing the
12 declaration?

13 A Our chief operating officer, Grayson Walter,
14 Charlie Sullivan, Steve Donato, Steve Donato, Brendan
15 Sheehan. Our chief financial officer, Ellen
16 Musialowski. I believe that was it.

17 Q And who provided you the information that's
18 contained in the declaration.

19 MR. SHEEHAN: Objection. To the extent
20 that answering these questions could divulge attorney-
21 client privilege information, I instruct you not to
22 answer it. You can answer it to the extent that
23 answering will not do so.

24 THE WITNESS: The IRCP information I had
25 myself. The chief operating officer supplied some

1 information about personnel numbers. And the chief
2 financial officer supplied information about the self-
3 insured program.

4 BY MS. MICHAEL:

5 Q Did someone else prepare an initial draft of
6 the declaration for you?

7 MR. SHEEHAN: We're going to assert the
8 same objection with respect to attorney-client
9 privilege. You can answer if doing so will not involve
10 attorney-client information. If doing so would --

11 THE WITNESS: Yeah.

12 MR. SHEEHAN: -- involve such --

13 THE WITNESS: I can't answer --

14 MR. SHEEHAN: -- information --

15 THE WITNESS: -- that.

16 MR. SHEEHAN: -- then don't answer.

17 BY MS. MICHAEL:

18 Q Okay. Do you plan on doing anything further
19 before the hearing on the Diocese motion for a
20 preliminary injunction, in terms of your expected
21 testimony?

22 MR. SHEEHAN: Objection. It calls for
23 speculation. Again, to the extent answering would
24 divulge a prospective attorney-client privilege
25 information, I instruct you not to do so. You can

1 answer, if you can.

2 THE WITNESS: I cannot answer that.

3 MS. MICHAEL: Okay. Turning to paragraph
4 7, and I can -- you should all be following me now; is
5 that correct? Do you all see paragraph 7, too?

6 MR. SHEEHAN: We do not.

7 THE WITNESS: No.

8 MR. SHEEHAN: We do not. Oh, there we
9 go. We do now.

10 THE WITNESS: It's currently cut off. I
11 can't see all of it.

12 MR. SHEEHAN: The right margin and the
13 bottom of the paragraph are obliterated.

14 THE REPORTER: This is the reporter.
15 Everybody is able to zoom in and out of the document.
16 So if you want to zoom out, you'd be able to see the
17 paragraph, Mr. Sheehan.

18 MR. SHEEHAN: Okay. Thank you. Would it
19 be helpful --

20 THE WITNESS: No, I can see it now.

21 MR. SHEEHAN: Okay.

22 THE WITNESS: Yeah.

23 MR. SHEEHAN: Okay. We can now see
24 paragraph 7. Thank you.

25 BY MS. MICHAEL:

1 Q Paragraph 7, you discuss staffing reductions
2 The Diocese of Buffalo has undergone. What precipitated
3 the staffing reductions?

4 A The filing of the Chapter 11. And dwindling
5 resources.

6 Q And I believe the statement states that the
7 reductions began in 2019. Is it correct that those
8 reductions began before the bankruptcy filing?

9 A True. Uh-huh. That's why I said dwindling
10 resource.

11 Q When did the planning process for those
12 staffing reductions begin?

13 A I don't know. I wasn't privy to that. I
14 wasn't here then.

15 Q And were any of the eliminated positions ones
16 that would have been involved in the reorganization?

17 A Absolutely. Especially the non-ministerial
18 staff.

19 MR. SULLIVAN: Shouldn't we object to the
20 form of the question? It's not what the paragraph says.
21 It doesn't say that the staffing reduction began in '19.
22 It was just a --

23 MS. MICHAEL: Apologies, Charlie, can you
24 speak louder? I'm not sure that we're getting what you
25 said on the record.

1 MR. SULLIVAN: Okay. Just, objection to
2 the form of that question. The paragraph does not say,
3 as I'm reading the words on the page, that any staffing
4 reductions began in 2019. It just relates it to a 2019
5 level.

6 MS. MICHAEL: I'll repeat my question.

7 BY MS. MICHAEL:

8 Q Were any of the eliminated positions ones that
9 would have been involved in the reorganization?

10 A Yes, mostly non-ministerial staff.

11 Q Can you describe those specific positions,
12 please?

13 A Mostly secretaries, file clerks, that type of
14 employee.

15 Q Okay. How many secretaries were eliminated?

16 A I don't know those numbers.

17 Q And how many file clerks were eliminated?

18 A I don't know those numbers.

19 Q And were any of the eliminated positions ones
20 that would've been involved in the defense of abuse
21 actions?

22 MR. SHEEHAN: Objection to form. You can
23 answer, if you can.

24 THE WITNESS: I don't really know. I
25 know, personally, now we have such a shortage of non-

1 ministerial staff that we ourselves are doing a lot of
2 the secretarial filing work ourselves.

3 BY MS. MICHAEL:

4 Q Turning now -- apologies. One additional
5 question there.

6 What kind of filing work do you do?

7 A I do a lot of filing with the priest files.
8 The -- so any document that needs to go into the
9 priests' files in the archives, because as chancellor
10 I'm responsible for the archives, I actually do that
11 filing largely myself.

12 Q And earlier you said, "We do a lot of that
13 filing now." Who are the other individuals included in
14 that "we"?

15 A The vicar general does it. The chief
16 operating officer has done some of it. Vice chancellor
17 has done a huge amount of it.

18 Q And for each of those individuals, what filing
19 work do they do?

20 A Basically, outside of the chief operating
21 officer, the vicar general, myself, and the vice
22 chancellor do the filing related to all of the
23 individual priests' personnel files.

24 Q And just help me understand this a little.
25 Those are for current priests?

1 A Current and deceased.

2 Q What new files are being filed in the deceased
3 priests' files?

4 A Anything that has to do with the Chapter 11 or
5 the CVA. Usually it's not filing, a lot of times it's
6 retrieving the files and looking for documents.

7 Q And I under -- in the last year, has there
8 been a significant amount of that filing necessary.

9 THE WITNESS: Yes.

10 MR. SHEEHAN: Objection. You can answer.

11 THE WITNESS: Yes. There's been a huge
12 amount of that filing. With different bankruptcy
13 issues. As well as the attorney general settlement
14 issues.

15 BY MS. MICHAEL:

16 Q And what are those issues that have come up in
17 the past year?

18 MR. SHEEHAN: Objection to form. You can
19 answer.

20 THE WITNESS: We did an extensive file
21 review for insurance coverage. We also did -- I'm in
22 the files literally every day, doing something either
23 for the Chapter 11 or the attorney general settlement,
24 because we're in the middle of our audit right now.

25 BY MS. MICHAEL:

1 Q For the Chapter 11, my understanding is the
2 majority of the priests' files were produced well over a
3 year ago. Can you describe what additional work in the
4 files you've been doing over the last year?

5 MR. SHEEHAN: Objection to form. You can
6 answer, if you know.

7 MR. SULLIVAN: And privilege.

8 MR. SHEEHAN: And instruct you, to the
9 extent that answering would divulge attorney-client
10 privilege, I instruct you not to do so. If you can
11 answer, you can answer without doing so.

12 THE WITNESS: I cannot answer that
13 question.

14 BY MS. MICHAEL:

15 Q And my understanding is that the settlement
16 with the attorney general was also completed almost a
17 year. Can you describe what you're doing in the files
18 related to the attorney general settlement for the past
19 year?

20 A Yes. We're in the middle of our audit right
21 now for the attorney general settlement. And it has
22 been nonstop retrieving information from those files, to
23 prove our compliance, for our independent auditor.

24 Q I believe I have moved your screen to the end
25 of paragraph 11 of Exhibit 1. Is that what you are

1 seeing?

2 MR. SHEEHAN: Yes.

3 BY MS. MICHAEL:

4 Q At the end of this paragraph you list
5 departments that have been eliminated. Did any of these
6 departments play a role in the CVA litigation?

7 MR. SHEEHAN: Objection to form. You can
8 answer, if you know.

9 THE WITNESS: Camp Turner has. The --
10 I'm not sure about the others. I know Camp Turner has.

11 BY MS. MICHAEL:

12 Q And what role did Camp Turner play in the CVA
13 litigation?

14 A There are cases against Camp Turner.

15 Q All right. And you said you've been in your
16 position, was it 22 months? Is that correct?

17 A No, about 11.

18 Q Apologies. Who was in your role prior to you?

19 A As chancellor, it was Sister Regina Murphy.
20 There was no in-house counsel. There was no child
21 protection policy coordinator. And there was no chief
22 compliance officer.

23 Q Okay. And prior to the bankruptcy filing, how
24 much time did Sister Regina -- Murry, is that correct?

25 A Murphy. Murphy.

1 Q Murphy. How much time did Sister Regina
2 Murphy spend administering the abuse actions, on a
3 monthly basis?

4 MR. SHEEHAN: Objection to form. You can
5 answer.

6 THE WITNESS: This is a guess, but I'm
7 thinking at least 50 percent of her time.

8 BY MS. MICHAEL:

9 Q And did that include abuse actions for which
10 the Diocese was not a party?

11 A That, I don't know.

12 Q And what would you be required to spend if the
13 abuse actions from which the Diocese is not a party move
14 forward?

15 A It would be a significant amount of time,
16 because there are very few people allowed access to the
17 personnel files, and I am the chief person that's
18 responsible for them. So I would be the one getting all
19 the information for the actions to go forward.

20 Q And what would that involve that has not
21 already been done in the productions in the bankruptcy
22 case?

23 MR. SHEEHAN: Objection to form.
24 Objection, to the extent you have to divulge attorney-
25 client information. If you can answer without doing so,

1 you may answer.

2 THE WITNESS: I cannot answer that.

3 BY MS. MICHAEL:

4 Q And in -- turning now, bringing you to
5 paragraph 10 of your declaration, you note, "I
6 anticipate that Mr. Suchan" -- is that correct?

7 A Suchan.

8 Q "Suchan, Ms. Musialowski, and I" --

9 A Correct.

10 Q -- "would also need to spend a significant
11 amount of time to assist the bishop in addressing such
12 matters."

13 What are the "such matters" that you're
14 referring to there?

15 A Any individual suit that went forward, we
16 would all be working on the case. We have to monitor it
17 for how it's going to affect the bankruptcy, from a
18 financial standpoint, for Ms. Musialowski. Rich Suchan
19 is the chief operating officer, is involved in
20 everything that's happening with the Diocese.

21 And then, I would have to be -- I would spend
22 a huge amount of time just making sure that issues
23 aren't conflicting between the Diocese, the individual
24 parishes, and the lawsuits, and any rulings that might
25 come out of those cases.

1 Q And turning to paragraph 10, further down, it
2 says, "Mr. Scholl and I will need to coordinate the
3 efforts of the multiple law firms that the Diocese and
4 related entities would rely upon as defense counsel."

5 Why would you have to coordinate the efforts
6 of law firms with respect to abuse actions to which the
7 Diocese is not a party?

8 A For the same reasons I stated before, why I
9 would be involved in those cases. And our insurance
10 program, Mr. Scholl, works with all of those. So I, as
11 in-house counsel, have to be kept up to date in
12 everything that's happening through the insurance
13 program.

14 Q And have you ever coordinated abuse actions
15 before?

16 A No.

17 MR. SHEEHAN: Objection to form.

18 BY MS. MICHAEL:

19 Q What role do you currently have with respect
20 to the Diocese restructuring efforts?

21 MR. SHEEHAN: Objection, to the extent
22 that answering would require you divulge attorney-client
23 privilege information, I instruct you not to do so. You
24 can answer to the extent you're able to do so without
25 divulging that information.

1 THE WITNESS: I -- I will say that I am
2 at all of the mediations, any meeting we have regarding
3 the bankruptcy I'm a part of. I'm the one that supplies
4 all the information relating to the priest personnel
5 files in the cases.

6 BY MS. MICHAEL:

7 Q Are there any other tasks relating to the
8 reorganization you're responsible for?

9 A Not directly, no.

10 Q And approximately how much time each month do
11 you spend on the reorganization?

12 A Probably at least 50 percent.

13 Q And how many hours is that?

14 A A month, that would be -- 20 hours a week --
15 80 hours a month.

16 Q And how much time do you specifically spend
17 attending mediation or negotiations with the Committee
18 or insurance carriers?

19 MR. SHEEHAN: Objection to form. You can
20 answer, if you know.

21 THE WITNESS: Every time we have a
22 mediation session, I'm here for the duration, so it's
23 nine, 10 hours a day, twice a month, or two days a
24 month, I should say.

25 BY MS. MICHAEL:

1 Q And how much time do you spend meeting with
2 bankruptcy counsel or internal diocesan staff regarding
3 the bankruptcy?

4 A Once or twice a week with counsel. And then,
5 internally, with staff, at least every week, probably
6 several times a week. It comes up in almost every
7 meeting that we have.

8 Q And approximately how many hours are spent on
9 those discussions specific to the bankruptcy?

10 A Per week, in the meetings, probably five a
11 week. In the in-house meetings with counsel, it's
12 probably another 10.

13 Q Apologies. I want to make sure that I'm
14 tracking that right. You spend 10 hours a week meeting
15 with counsel regarding the bankruptcy?

16 A Well, with different meetings that we have,
17 Zoom meetings, calls, things like that. It depends on
18 the week and what issue has come up.

19 Q And about how many hours a week do you spend
20 reviewing, preparing, or producing documents related to
21 the bankruptcy?

22 A That's a hard one to estimate, because it all
23 depends on what issue has come up that week. So I would
24 say, I'm working 40 hours a week, at least 15 are
25 actually me in the files.

1 Q And can any of those tasks be handled by other
2 staff members of the Diocese?

3 A No, because the files, per canon law, are
4 secret. And I don't mean that in a secretive way. I
5 mean, they're private. They're only allowed access by
6 the bishop, the vicar general, or the chancellor.

7 Q Do your outside counsel also have access to
8 those files?

9 A When we grant permission to them. The bishop
10 is entitled to grant permission to them, so yes.

11 Q Could the bishop grant permission to other
12 staff within the Diocese, as well?

13 A They could -- he technically could, but it's
14 very frowned upon, and it's never done. Even as vice
15 chancellor I wasn't given access to the files, until I
16 became chancellor. I'm responsible, as chancellor, per
17 canon law, for safeguarding the privacy of those files.

18 Q And how would your ability to complete those
19 tasks be impacted if the state court actions move
20 forward?

21 A There would be several more meetings with
22 counsel. There would be more times when I had to go
23 into the files and gather documents, to prepare for
24 litigation. There would be, I can imagine, fielding
25 hundreds of questions from various sources. It would be

1 a monumental task.

2 Q So what, in addition to going into the files
3 and meeting with counsel, would that involve --

4 MR. SHEEHAN: Objection.

5 MS. MICHAEL: -- for you?

6 MR. SHEEHAN: Objection to form. You can
7 answer, if you know.

8 THE WITNESS: Yeah. I'm not sure exactly
9 what you mean.

10 BY MS. MICHAEL:

11 Q You -- I asked what would be impacted if the
12 state -- if the abuse actions moved forward, and you
13 mentioned going into the files, and additional meetings
14 with counsel. I'm asking, are there any other
15 additional tasks you have to undertake?

16 A Well, going into the -- I would be monitoring
17 all of the litigation, as in-house counsel. I would
18 have to monitor each and every single case. And going
19 into the files sounds simpler than it actually is. It's
20 me going through the entire file, finding all the
21 relevant information. It takes hours to do that.

22 Q And how many files remain that have not
23 already been produced to your outside counsel?

24 MR. SHEEHAN: Objection to form. You can
25 answer, if you know.

1 THE WITNESS: That I don't know. That
2 was before my time. So I don't know.

3 BY MS. MICHAEL:

4 Q Uh-huh. So when you're currently reviewing
5 files, those may be files that outside counsel also
6 already have access to?

7 MR. SULLIVAN: I'm going to object to
8 form. I don't know what outside counsel you're
9 referring to. And also, the documents that are produced
10 in the bankruptcy are completely unavailable in CVA
11 actions, per the agreement, stipulation which has been
12 entered into.

13 So any discovery that proceeds -- so
14 again, objection to form, because it presupposes that
15 those documents may be available, and they're not.

16 MS. MICHAEL: Okay. I'm not sure that's
17 relevant. My question -- I'll repeat my question.

18 BY MS. MICHAEL:

19 Q Outside counsel would be any counsel, the
20 Diocese employees, that is not you or anyone else who is
21 in-house at the Diocese. I'm asking if there are files
22 that have not already been produced to your outside
23 counsel.

24 MR. SHEEHAN: Objection to form. You can
25 answer, if you know.

1 THE WITNESS: I don't know. That was
2 before my time.

3 BY MS. MICHAEL:

4 Q Okay. Does Bishop Fisher maintain timesheets,
5 or otherwise record his time?

6 A I do not believe he does, no.

7 Q And have you spoken to Bishop Fisher regarding
8 his role in administering the abuse actions if the stay
9 is lifted.

10 MR. SHEEHAN: Objection, to the extent
11 that answering would call for attorney-client privilege,
12 I'd instruct you not to answer. If you can answer
13 without doing so, you may.

14 THE WITNESS: I can't answer that.

15 BY MS. MICHAEL:

16 Q And how much time was Bishop Fisher required
17 to spend administering abuse actions, prior to the
18 bankruptcy filing, on a monthly basis?

19 A Bishop Fisher wasn't here then. And I wasn't
20 here then. So I don't know.

21 Q Do you know how much time the previous bishop
22 was required to spend administering abuse actions, prior
23 to the bankruptcy filing?

24 A Any -- any idea.

25 Q And has Bishop Fisher told you how much time

1 he would have to spend administering abuse actions to
2 which the Diocese to which he is not a party, if the
3 actions are permitted to go forward?

4 A That wouldn't be something that he would
5 mandate.

6 Q And has Bishop Fisher told you what he would
7 be required to do if the abuse actions to which the
8 Diocese is not a party go forward?

9 A As in-house counsel, that would be attorney-
10 client privilege.

11 Q And did Bishop Fisher make important decisions
12 regarding strategic and policy considerations for the
13 abuse actions to which the Diocese was not a party,
14 prior to the bankrupt -- well, did Bishop Fisher or the
15 previous bishop make important decisions regarding
16 strategic and policy considerations for the abuse
17 actions to which the Diocese was not a party, prior to
18 the bankruptcy?

19 MR. SHEEHAN: I'm going to object to the
20 form of the question, ask you to restate it. It's
21 pretty hard to follow. I know -- to the extent you can
22 answer it, go ahead.

23 THE WITNESS: I would have no idea what
24 the previous bishop has done. I know that Bishop Fisher
25 is in almost all of the meetings that I was talking

1 about, that -- that take so much time with me. He is
2 there. He's at the mediation sessions. He has, you
3 know, meetings that I probably don't even know about
4 regarding the mediations. So he has spent a huge amount
5 of time on this.

6 BY MS. MICHAEL:

7 Q And if the abuse actions go forward, what is
8 your basis for asserting that Bishop Fisher will have to
9 make important decisions regarding strategic and policy
10 considerations for those actions?

11 A Well, as the bishop, he is on the board of all
12 of the individual parishes, so he's responsible. So he
13 has to be aware of every single action that's happening
14 with an individual parish, as a board member.

15 Q Is the bishop responsible for decisions
16 related to the parish's involvement in the bankruptcy
17 case?

18 MR. SHEEHAN: Objection to the form. You
19 can answer, if you can.

20 THE WITNESS: I'm not exactly sure what
21 you mean.

22 BY MS. MICHAEL:

23 Q Would the bishop be responsible for deciding
24 what individual parishes contribute to the bankruptcy
25 case?

1 A Contribute monetarily, or --

2 Q Monetarily, yes. To any eventual settlement
3 of bankruptcy.

4 MR. SULLIVAN: Privilege.

5 MR. SHEEHAN: Objection to form, to the
6 extent --

7 MS. MICHAEL: Charlie, if you're
8 speaking, you need to speak loud enough that we can hear
9 it on the record.

10 MR. SULLIVAN: I'm sorry, what did you
11 say?

12 MS. MICHAEL: We couldn't hear what you
13 were just saying on the record.

14 MR. SULLIVAN: We objected to the form,
15 and objected to the extent that it solicits material
16 that's covered by the attorney-client privilege.

17 MS. MICHAEL: I'm not asking about
18 anything related to attorney-client privilege. I'm
19 asking --

20 MR. SULLIVAN: You're going far afield to
21 anything that's relevant to the motion that's before the
22 court. You're exploring matters relating to the
23 mediation --

24 MS. MICHAEL: Charlie, I --

25 MR. SULLIVAN: -- and privilege of a

1 potential settlement --

2 MS. MICHAEL: -- it's --

3 MR. SULLIVAN: -- and it goes way beyond
4 the scope of what's permissible in this deposition.
5 Especially since it solicits privileged information.

6 MS. MICHAEL: Thank you. I'm going to
7 repeat the question.

8 BY MS. MICHAEL:

9 Q Is Bishop Fisher responsible for making
10 decisions for the parishes related to their monetary
11 contribution to any settlement in the bankruptcy case?

12 MR. SHEEHAN: We repeat the objection.

13 THE WITNESS: Can I answer?

14 MR. SHEEHAN: You can answer, if you
15 know.

16 THE WITNESS: He is involved in nearly
17 all of the meetings where we discuss those matters. If
18 he's in town, and available, he is there, and making
19 decisions.

20 BY MS. MICHAEL:

21 Q And if the abuse actions go forward, when
22 would Bishop Fisher need to make the strategic and
23 policy decisions in those abuse actions?

24 MR. SHEEHAN: Objection to form. Calls
25 for speculation. You can answer, if you know.

1 THE WITNESS: As a board member of every
2 individual parish, I would assume that he would be
3 involved from the very beginning.

4 BY MS. MICHAEL:

5 Q And what is Bishop Fisher's current role with
6 respect to tasks related to the Diocese restructuring
7 efforts?

8 A I'm not sure. That's kind of vague. Again, I
9 reiterate that he's at all the mediation sessions when
10 he's in town. He's at all of the meetings where we
11 discuss restructuring. He is in all of the -- almost
12 all of the calls with counsel.

13 Q And so let's break that down. How much time
14 does Bishop Fisher spend in participating in mediation
15 in the bankruptcy proceeding, on a monthly basis?

16 A Nine, 10 hours, two days a month, he's here,
17 participating. And then, all of the -- the calls that
18 we have. He's on the weekly calls with outside counsel.
19 He's on the -- the pop-up calls that we have to address
20 specific issues. He's at our senior staff meetings,
21 when we're just having lengthy discussions about
22 restructuring.

23 Q And how much time, on a monthly basis, does
24 Bishop Fisher spend viewing, preparing, or producing
25 documents in the Chapter 11 case?

1 A He doesn't produce the documents, that would
2 be my job, and counsels' job. But he knows what we're
3 producing, he's aware of everything that's happening.

4 Q And is it your belief that Bishop Fisher will
5 not be able to undertake his tasks related to the
6 restructuring if the abuse actions move forward?

7 MR. SHEEHAN: Objection to form. You can
8 answer, if you know.

9 THE WITNESS: Yes, it is absolutely my
10 belief. The man is --

11 BY MS. MICHAEL:

12 Q On what do you base that?

13 A The man is stretched so thin right now, he
14 doesn't have a second to breathe. He's constantly being
15 pulled from one issue to another. I don't know how he
16 could possibly handle having to participate in the
17 individual abuse actions in state court.

18 Q And is any of your testimony based on
19 privileged information you received from the bishop?

20 A Regarding what?

21 Q Regarding his roles and responsibilities?

22 MR. SHEEHAN: Objection.

23 THE WITNESS: Yeah.

24 MR. SULLIVAN: And also, to the extent
25 that the question is seeking to solicit a waiver of

1 privilege, that would be objectionable.

2 BY MS. MICHAEL:

3 Q Is there any responsibilities that Bishop
4 Fisher currently has that he could delegate?

5 MR. SHEEHAN: Objection to form. You can
6 answer, if you know.

7 THE WITNESS: He can't delegate the fact
8 that he is on the board of all of the individual
9 parishes. So no.

10 BY MS. MICHAEL:

11 Q And if the abuse actions go forward, what
12 would the responsibility of the individual pastors of
13 those parishes be?

14 MR. SHEEHAN: Objection to form. You can
15 answer, if you know.

16 THE WITNESS: They would be the ones
17 responsible -- actually, I don't know. I can't answer
18 that.

19 BY MS. MICHAEL:

20 Q And does -- outside of the context of the
21 Chapter 11 case, or the abuse actions, is Bishop Fisher
22 involved in the day-to-day management of each parish?

23 MR. SHEEHAN: Objection to form. You can
24 answer.

25 THE WITNESS: To some extent, yes, he is.

1 Because he has to approve, canonically, certain things
2 that parishes do and don't do. So yes, he is involved
3 in the day-to-day.

4 BY MS. MICHAEL:

5 Q Can you specify those things --

6 MR. SULLIVAN: Objection to form.

7 MS. MICHAEL: -- parishes --

8 THE WITNESS: I'm sorry, what?

9 BY MS. MICHAEL:

10 Q Can you specify those things that Bishop
11 Fisher must be involved in at the parish level on the
12 day-to-day?

13 MR. SHEEHAN: Objection to form. You can
14 answer, if you know.

15 MR. SULLIVAN: Yeah, and specifically the
16 form objection. What do you mean by day-to-day? I
17 think the witness has testified about certain canonical
18 obligations. I mean, it's -- you know, what is day-to-
19 day? Is it decisions on the ground? If you could
20 amplify that, it would be better.

21 MS. MICHAEL: Okay. Going forward, I
22 would appreciate if the witness asked for clarification,
23 and counsel stuck to formal objections. But I will
24 clarify.

25 BY MS. MICHAEL:

1 Q I am asking, outside of the context of the
2 Chapter 11 case, and the abuse actions, in what context
3 does Bishop Fisher get involved in the management of
4 individual parishes?

5 A He is responsible for assigning all cleric
6 personnel to the parishes. He's responsible for
7 assigning priests, deacons, pastors, parochial vicars.
8 He's responsible for okaying certain financial
9 expenditures. He's responsible for trustee
10 appointments, I believe. So he is involved.

11 He's responsible if the parish needs to change
12 their use. There are several canonical decrees that he
13 is responsible for with all of the parishes.

14 MR. SULLIVAN: Excuse me, Ms. Brittany.
15 I want to take a break and confer with Mr. Sheehan
16 outside of the room, if we may.

17 MS. MICHAEL: Sure.

18 THE REPORTER: Ms. Michael, would you
19 like to go off the record?

20 MS. MICHAEL: Yes, please.

21 THE REPORTER: Okay. The time is now
22 11:54 a.m. Eastern, and we are off the record.

23 (Off the record.)

24 THE REPORTER: The time is now 12:02 p.m.
25 Eastern, and we're back on the record. You may proceed.

1 MS. MICHAEL: Thank you.

2 BY MS. MICHAEL:

3 Q Ms. Potzler, did you discuss anything with
4 your counsel during this break?

5 A I did not.

6 Q Okay. Going back to our previous discussion,
7 is it your belief that Bishop Fisher will be involved in
8 reviewing document productions in the abuse actions?

9 MR. SHEEHAN: Objection. You can answer,
10 if you know.

11 THE WITNESS: I don't know. Sorry.

12 BY MS. MICHAEL:

13 Q And will Bishop Fisher be involved in
14 attending depositions where he is not the deponent in
15 any of these actions?

16 MR. SHEEHAN: Objection. You can answer,
17 if you know.

18 THE WITNESS: I don't know.

19 BY MS. MICHAEL:

20 Q Will Bishop Fisher be involved in reviewing
21 pleadings in the abuse actions?

22 A Excuse me. I'm sorry. He may. That may come
23 up at some point, yes.

24 Q Okay. What pleadings will Bishop Fisher be
25 involved in reviewing?

1 MR. SHEEHAN: Objection. You can answer,
2 if you know.

3 THE WITNESS: That calls for speculation.
4 I wouldn't know.

5 BY MS. MICHAEL:

6 Q And what strategic decisions would Bishop
7 Fisher be involved in making?

8 MR. SULLIVAN: Objection to form. On
9 behalf of the Diocese or on behalf of what party?

10 BY MS. MICHAEL:

11 Q I'm referring to Ms. Potzler's statement that
12 Bishop Fisher would be involved in making strategic
13 decisions in the abuse actions. I'm now saying, what
14 strategic decisions would Bishop Fisher be involved in
15 making in the abuse action?

16 A Well, being on the board of every individual
17 parish, he would have to make decisions as to -- excuse
18 me -- strategic decisions -- excuse me, I'm sorry --
19 litigation, as well as any potential future financial
20 impact on each individual parish.

21 Q And can you specify what those strategic
22 decisions he'd be involved in are?

23 MR. SHEEHAN: Objection to form. You can
24 answer.

25 THE WITNESS: Well, just an as example,

1 if a parish faces a suit, there is the absolute
2 potential that they're going to wind up filing
3 bankruptcy as well. So he would be involved in all of
4 that.

5 BY MS. MICHAEL:

6 Q Can you explain what you mean when you say,
7 "all of that"?

8 A He's responsible for the financial viability
9 of the parishes, to some extent. So he would be
10 involved in whether or not bankruptcy filings were in
11 the offing.

12 Q Would he be involved in decisions to file
13 motions to dismiss in the individual abuse actions?

14 MR. SHEEHAN: Objection. You can answer,
15 if you know.

16 THE WITNESS: I don't know.

17 MR. SULLIVAN: And again, would it be on
18 behalf of the parishes or the Diocese? Because they're
19 -- we also asserted in the pleadings that there are
20 collateral estoppel impact upon the Diocese. So --

21 MS. MICHAEL: Mr. Sullivan --

22 MR. SULLIVAN: -- in terms of that --

23 MS. MICHAEL: -- are you objecting?

24 MR. SULLIVAN: -- Yes, I am. To the form
25 of the question.

1 MS. MICHAEL: Okay.

2 MR. SULLIVAN: To the form of the
3 question. I have to illustrate the objection.

4 BY MS. MICHAEL:

5 Q Ms. Potzler, you can answer the question.
6 Would Bishop Fisher be involved in the decision to file
7 a motion to dismiss in an abuse action?

8 A He would be involved in those decisions.

9 Q All right. And would Bishop Fisher be
10 involved in the decision to file a motion for summary
11 judgment in each individual abuse action?

12 A Yes.

13 Q Okay. And would Bishop Fisher be involved in
14 settlement discussions in each individual abuse action?

15 MR. SHEEHAN: Objection. You can answer,
16 if you know.

17 THE WITNESS: That, I don't know. Most
18 likely he would, because he's been involved in all of
19 the decision making processes so far.

20 BY MS. MICHAEL:

21 Q Can you specify what decision making processes
22 so far he has been involved in?

23 MR. SHEEHAN: Objection, to the extent
24 that answering would call for attorney-client privilege,
25 I instruct you not to answer. If you can do so without

1 doing so, you can answer.

2 THE WITNESS: I can't. That would
3 violate attorney-client privilege.

4 BY MS. MICHAEL:

5 Q So to clarify, you're refusing to answer what
6 decisions thus far Bishop Fisher has been involved in,
7 on the basis of privilege?

8 A Yes. Because I'm his in-house counsel.

9 Q And is Bishop Fisher involved in non-abuse
10 litigation against parishes, for example, if someone
11 slips and falls, and sues on that basis?

12 A I don't know that answer.

13 Q Okay. In a slip and fall litigation against a
14 parish, would Bishop Fisher be involved in a motion to
15 file to motion to dismiss?

16 MR. SHEEHAN: Objection. You can answer,
17 if you know.

18 THE WITNESS: I don't know.

19 BY MS. MICHAEL:

20 Q Have there been any slip and fall lawsuits
21 against the parishes since you've been in your position?

22 A I'm sure there has, but that doesn't come
23 through me.

24 Q Who does that go through?

25 A John Scholl.

1 Q Okay. So you have no involvement in
2 litigation against parishes that -- for slip and falls?

3 A There are times when I will see that they
4 could come to me with a case, because they've come to me
5 with cases that do not involve slip and falls, so I can
6 see that happening in the future. But it has not
7 happened to this point.

8 Q What kinds of cases, besides slip and falls
9 and abuse, have they brought to you?

10 A Discrimination cases, lease cases. I believe
11 that's all I've had. So several lease cases, and a few
12 discrimination cases.

13 Q And what's your involvement in those
14 discrimination cases?

15 A Basically, offering my opinion, as in-house
16 counsel, as to the direction we should take. Basically,
17 that's it.

18 Q Okay. And what's your involvement in those
19 lease cases?

20 A I've been reviewing the leases, and giving
21 advice as to whether or not they've been breached.

22 Q And do you work -- in the lease cases, is
23 there outside counsel hired by the parish or the Diocese
24 to defend or prosecute in those cases?

25 A The ones that I have recently looked at, no.

1 I'm sure there are some others that they've probably
2 hired outside counsel.

3 Q And in the discrimination cases, is there
4 outside counsel hired to defend the parish?

5 A Yes.

6 Q Do you work directly with that outside
7 counsel?

8 A Sometimes I do, sometimes I don't. It depends
9 on the case.

10 Q If you don't, who does?

11 A Probably John Scholl. I know the vicar
12 general's been involved. I'm sure the bishop has been
13 apprised. The chief operating officer is also aware.
14 The chief financial officer is aware when we have
15 lawsuits of any nature.

16 Q But who works directly with the outside
17 counsel?

18 A John Scholl.

19 Q And what determines cases that are brought to
20 you versus cases that Mr. Scholl oversees?

21 A I think they're just if there is an
22 interesting question of fact or law, they tend to bring
23 them up to me. It's on a case by case basis.

24 Q And is Bishop Fisher involved in any of the
25 discrimination cases?

1 A He is apprised of all of them. I believe he
2 reads the pleadings. I'm not sure. I -- you know, I
3 don't know that for a fact. He is aware of all of that.
4 And we have had discussions at meetings regarding those
5 cases.

6 Q And would Bishop Fisher be involved in the
7 decision to file a motion to dismiss in one of those
8 discrimination cases?

9 MR. SHEEHAN: Objection, to the extent
10 answering will call for attorney-client privilege, I
11 instruct you not to answer. You can answer it without
12 doing so, if not.

13 THE WITNESS: I have seen him be involved
14 in the discussions, yes.

15 BY MS. MICHAEL:

16 Q And is Bishop Fisher involved in any decision
17 to file a motion for summary judgment in the
18 discrimination cases?

19 A That --

20 MR. SHEEHAN: Sorry. The same objection,
21 with respect to privilege.

22 THE WITNESS: And I don't know.

23 BY MS. MICHAEL:

24 Q For the motions to dismiss, does Bishop Fisher
25 have to be involved? You said he's been involved in

1 those discussions, some of those discussions, but do you
2 require Bishop Fisher's sign-off on those motions to
3 dismiss?

4 MR. SHEEHAN: Objection, to the extent
5 answering would call for attorney-client privilege, I'd
6 instruct you not to answer. If you can answer without
7 doing so, you may.

8 THE WITNESS: I cannot answer that.

9 BY MS. MICHAEL:

10 Q So to clarify, you cannot tell us if Bishop
11 Fisher's permission is required to file a motion to
12 dismiss in a discrimination, on the basis of attorney-
13 client privilege?

14 A That. And the fact that I'm not sure. It
15 depends on the case, and on canon law.

16 Q When does canon law require Bishop Fisher to
17 be involved in the decision to file a motion to dismiss?

18 A I don't know. That's why I said I can't
19 answer that. Because I know -- I'm not a canon lawyer.
20 There is very specific rules regarding these issues, but
21 I don't know specifically what they are.

22 Q Moving to Father Karalus -- am I pronouncing
23 that right?

24 A Yes.

25 Q Does Father Karalus maintain timesheets, or

1 otherwise record his time?

2 A I don't know.

3 Q Have you spoken to Father Karalus regarding
4 his role in administering the abuse actions prior to the
5 bankruptcy?

6 A Not specifically, no.

7 Q Okay. Do you know how much time Father
8 Karalus spent administering the abuse actions prior to
9 the bankruptcy?

10 A I do not.

11 Q And has Father Karalus told you how much time
12 he will have to spend administering the abuse actions to
13 which the Diocese is not a party, if the actions are
14 permitted to go forward?

15 A We haven't had any conversations directly
16 relating to that.

17 Q And what role would Father Karalus have
18 regarding the abuse actions that the Diocese is not a
19 party to, if they are permitted to go forward?

20 MR. SHEEHAN: Objection. You can answer.

21 THE WITNESS: I'm just assuming here, but
22 I think that he would be called to testify in several of
23 them, as his role of vicar general, he is taking over
24 from -- some of the duties of former employees that were
25 heavily involved in the abuse actions.

1 BY MS. MICHAEL:

2 Q And who are those former employees whose
3 duties he has taken over?

4 A Auxiliary Bishop Grosz, who was extensively
5 involved, from what I can tell by the files. Father
6 Karalus has taken over several of those duties. I'm not
7 sure which ones, but I know that those have been given
8 to him, so he would be heavily involved, if there's a --
9 excuse me -- if it's based on the fact Bishop Grosz was
10 so heavily involved, I'm assuming that Father Karalus
11 would be called to testify.

12 Q And other than testifying, how else would
13 Father Karalus be involved in the abuse actions to which
14 the Diocese is not a party?

15 MR. SHEEHAN: Objection. You can answer,
16 if you know.

17 THE WITNESS: Well, just on a day-to-day
18 basis, I'm in his office all of the time, talking about
19 specific cases, and he is at all of the meetings where
20 we discuss the cases. So he spends many, many hours a
21 week dealing with it.

22 BY MS. MICHAEL:

23 Q And what is his role in dealing with the
24 cases? Does he make decisions?

25 A Sometimes.

1 Q And in what areas does he make decisions?

2 MR. SHEEHAN: Objection, to the extent
3 answering would call for you to divulge attorney-client
4 privilege information, I instruct you not to do so. If
5 you can answer without doing so, you may.

6 THE WITNESS: I cannot answer that.

7 BY MS. MICHAEL:

8 Q So to clarify, you cannot answer Father
9 Karalus's role in making decisions regarding abuse
10 actions on the basis of attorney-client privilege?

11 A Yes.

12 MR. SHEEHAN: I believe your question was
13 more specific than that, regarding which decisions.

14 BY MS. MICHAEL:

15 Q Okay. So to clarify, you cannot answer which
16 decisions Father Karalus is responsible for regarding
17 abuse actions on the basis of attorney-client privilege?

18 A Yeah, it's a case by case basis. So
19 frequently we're talking about -- you know, I'm giving
20 him legal advice.

21 Q Uh-huh. And on the basis of attorney-client
22 privilege, you cannot tell me in what scenarios Father
23 Karalus is the one responsible for making decisions
24 regarding those abuse actions?

25 A Again, it's a case by case basis, so if he's

1 asking me for my opinion as to how the -- we should
2 proceed legally, no, I can't answer that.

3 Q I'm not asking in a specific case what legal
4 advice he has asked for. I am asking, overall, when is
5 he responsible for making decisions in abuse actions?

6 A Well, as the vicar general, he's responsible
7 whenever the bishop is absent. So if Bishop Fisher
8 isn't here, for whatever reason, he's responsible for
9 making all of those decisions. He's the second in
10 command of the Diocese.

11 Q So when Bishop Fisher is present, does Father
12 Karalus have any responsibility for making decisions in
13 abuse actions?

14 A He is at all the meetings where we discuss the
15 actions that we're taking, and making decisions, so to
16 that extent, yes.

17 Q To the extent that he is present at meetings,
18 then he is involved? Am I understanding --

19 A Right.

20 Q -- that correctly?

21 A Because at the meetings we are deciding which
22 action to pursue.

23 Q And what role does Father Karalus have with
24 respect to the Diocese restructuring efforts?

25 A That, I can't really answer, because he's not

1 part of the restructuring, the mediation, he's not part
2 of the weekly calls. So I can't really answer that.

3 Q Does Father Karalus review, prepare, or
4 produce any of the documents related to the
5 restructuring efforts?

6 A I don't know.

7 Q All right. Turning now to Mr. Suchan. Does
8 Mr. Suchan maintain timesheets or otherwise record his
9 time?

10 A I believe he may. I'm not sure.

11 Q Have you spoken to Mr. Suchan regarding --
12 apologies.

13 A I'm sorry, repeat?

14 Q Oh, I thought I heard you saying something
15 else.

16 Have you spoken to Mr. Suchan regarding his
17 role in administering abuse actions prior to the
18 bankruptcy filings?

19 A I know he was involved. I don't know to what
20 extent.

21 Q And how much time was Mr. Suchan required to
22 spend, prior to the bankruptcy filing, administering
23 abuse actions?

24 A I would have no way of knowing that.

25 Q Has Mr. Suchan told you how much time he will

1 have to spend administering abuse actions to which the
2 Diocese is not a party if these actions are permitted to
3 go forward?

4 MR. SHEEHAN: Objection to form. You can
5 answer, if you know.

6 THE WITNESS: I don't know. He has not
7 specifically -- we have not had that conversation,
8 specifically, as to how much time -- additional time, he
9 thought he would have to spend. It would be very heavy
10 time, just on my own approximation.

11 BY MS. MICHAEL:

12 Q And what is the basis for your -- for that
13 approximation?

14 A He is even more involved than I am with the
15 bankruptcy. He is in every meeting, every phone call.
16 He is heavily involved in the negotiations, as to how
17 much our related entities will be contributing. He is
18 involved in all the communications to the individual
19 entities. I would say at least 70 percent of his day is
20 spent involved with the bankruptcy litigation.

21 Q And how would that -- let me restart that
22 question.

23 What would Mr. Suchan's involvement with the
24 abuse actions be for actions to which the Diocese is not
25 a party, if those are allowed to go forward?

1 MR. SHEEHAN: Objection. You can answer,
2 if you know.

3 THE WITNESS: I don't know specifically.
4 I know that he would be involved -- he's the one that
5 keeps the records on the databases of all of the
6 different cases going forward. So when anyone needs
7 information, they go to him, because he's tracking all
8 of it.

9 BY MS. MICHAEL:

10 Q Can you explain in a little bit more detail
11 what exactly he's tracking?

12 A All the individual claimants, all the
13 individual parishes, all the individual accusers. How
14 much has been paid out with the IRCP program. I believe
15 he may be tracking which cases are duplicative. That
16 type of thing.

17 Q And what would his tracking responsibilities
18 be for the abuse actions, if they went forward, if the
19 Diocese is not a party to those actions?

20 MR. SHEEHAN: Objection. You can answer,
21 if you know.

22 THE WITNESS: I'm just speculating here,
23 but I'm assuming that he would be the one keeping track
24 of each case that went forward, database-wise, and
25 correlating and communicating with everyone, database-

1 wise, so that we're all on the same page.

2 So he has, like I said, huge lists of
3 databases that he maintains, so these would be more
4 databases for him to bring up, what's happening when,
5 which parish this one is happening at, which parish is
6 at this point in the litigation.

7 BY MS. MICHAEL:

8 Q And does your counsel also track the
9 information that Mr. Suchan tracks, regarding the
10 claims, and the litigation?

11 MR. SHEEHAN: Objection, to the extent
12 answering would call for attorney-client privilege, I
13 instruct you not to answer.

14 THE WITNESS: I can't answer that.

15 BY MS. MICHAEL:

16 Q To clarify, you cannot answer whether your
17 counsel also tracks claims in state court actions on the
18 basis of attorney-client privilege?

19 A Correct.

20 Q And does Mr. Suchan have a role with any of
21 the related entities?

22 MR. SHEEHAN: Objection to form. You can
23 answer.

24 THE WITNESS: Yeah. I'm not sure exactly
25 what you mean.

1 BY MS. MICHAEL:

2 Q Does he have any role at individual parishes?

3 A Not a specific role, but he is involved with
4 every parish, to the extent that he is frequently
5 receiving phone calls, questions, regarding the Chapter
6 11. He is the one that is heading up the committee that
7 is communicating to the individual parishes, trying to
8 determine the extent that they will participate in the
9 settlement, that type of thing.

10 Q But Mr. Suchan is not an employee of any
11 individual parish; is that correct?

12 A Correct.

13 Q And he is not a board member of any of the
14 individual parishes?

15 A I don't believe so. But I'm guessing. I'm
16 guessing there.

17 Q Is it your belief that Mr. Suchan would not be
18 able to undertake both the tasks needed to administer
19 the abuse actions to which the Diocese is not a party,
20 and the tasks related to the Diocese restructuring
21 efforts?

22 A Correct.

23 Q On what do you base that belief?

24 A The fact that he's already working, like, 60,
25 70 hours a week, and is ridiculously stretched thin.

1 Q Have you ever discussed this with him?

2 A Not specifically. It's just from my
3 observations, and the amount of work that we're doing on
4 these issues every day.

5 Q And are there any tasks, besides tracking,
6 that Mr. Suchan would be responsible for with the abuse
7 actions?

8 MR. SHEEHAN: Objection. You can answer,
9 if you know.

10 THE WITNESS: Well, he is, like I said,
11 responsible for determining the contributions of each
12 individual entity towards the settlement.

13 BY MS. MICHAEL:

14 Q Okay. Does Ms. Musialowski maintain
15 timesheets, or otherwise record her time?

16 A I don't know.

17 Q And have you spoken to Ms. Musialowski
18 regarding her role in administering the abuse actions
19 prior to the bankruptcy filing?

20 A No. She wasn't employed by the Diocese at
21 that point.

22 Q And who was in her role prior to her?

23 A I'm not exactly sure.

24 Q Do you know how much time the previous CFO
25 spent administering abuse actions, prior to the

1 bankruptcy filing?

2 A I would have no way of knowing that.

3 Q Uh-huh. And has Ms. Musialowski told you how
4 much time she will have to spend administering abuse
5 actions to which the Diocese is not a party, if those
6 actions are permitted to go forward?

7 A We have not had that conversation.

8 Q Okay. What role would Ms. Musialowski have in
9 administering the abuse actions to which the Diocese is
10 not a party, if those actions are permitted to go
11 forward?

12 MR. SHEEHAN: Objection. You can answer,
13 if you know.

14 THE WITNESS: I don't know.

15 BY MS. MICHAEL:

16 Q And what role does Ms. Musialowski currently
17 have with respect to the Diocese reorganization efforts?

18 A She is in all the meetings that I previously
19 discussed. She is in all of the mediations. And she is
20 -- outside Mr. Suchan, she is responsible for the
21 committee that is determining which -- what each entity
22 will be responsible for, settlement-wise.

23 Q Who are --

24 A It's a huge time --

25 Q Got it.

1 A I was just going to say, it's a huge time
2 commitment for both of them.

3 Q Who are the members of that committee?

4 MR. SHEEHAN: Objection, to the extent
5 that answering would call for attorney-client privilege,
6 I instruct you not to answer.

7 THE WITNESS: Can't answer that.

8 BY MS. MICHAEL:

9 Q For the record, you're refusing to answer, on
10 the basis of attorney-client privilege, who the members
11 of the committee that are determining the related
12 entities' contribution is?

13 A Correct.

14 Q Okay. But Ms. Musialowski is a member of that
15 committee, correct?

16 A Yes.

17 Q And Mr. Suchan is a member of that committee,
18 correct?

19 A Yes.

20 Q And how many other members of that committee
21 are there?

22 MR. SULLIVAN: Objection. Again, this is
23 going beyond the scope of this deposition, as well,
24 which is limited to the issues involved in this motion.

25 BY MS. MICHAEL:

1 Q I'll restate my question. How any other
2 members of that committee are there?

3 A I honestly don't know how many people. I'm
4 not on that committee.

5 Q Is Bishop Fisher on that committee?

6 MR. SHEEHAN: Objection. Once again,
7 object to the extent that answering will call for
8 attorney-client privilege, and on the basis that this
9 line of questioning is beyond the scope of this
10 deposition.

11 MS. MICHAEL: I'll restate the question.

12 BY MS. MICHAEL:

13 Q Is Bishop Fisher on that committee?

14 A I can't answer that.

15 Q So for the record, you cannot tell me if
16 Bishop Fisher's on the committee that Mr. Suchan and Ms.
17 Musialowski are on, on the basis of attorney-client
18 privilege?

19 A Correct. The reason I know that Suchan and
20 Musialowski are on there is because I've discussed that
21 with them. I am not on the committee.

22 Q I just want to clarify then, that your answer
23 to whether Bishop Fisher is on that committee is that
24 you cannot respond due to attorney-client privilege?

25 A Correct.

1 Q Okay. Is Father Karalus on that committee?

2 MR. SULLIVAN: I assert the same
3 privilege -- the same objection.

4 THE WITNESS: Correct. I can't answer
5 that.

6 BY MS. MICHAEL:

7 Q All right. So to clarify for the record, you
8 cannot answer if Father Karalus is on the committee that
9 Ms. Musialowski and Mr. Suchan are on, to determine the
10 related entities' contribution, on the basis of
11 attorney-client privilege?

12 A Correct.

13 MR. SULLIVAN: So let's just clarify some
14 points here. We're drilling down --

15 MS. MICHAEL: Mr. Sullivan, are you
16 testifying?

17 MR. SULLIVAN: I am actually stating an
18 objection. And what we're -- you're -- and objection
19 also, on the basis of matters that are being addressed
20 in mediation. So we're talking now about --

21 MS. MICHAEL: Okay. I've heard your
22 objection, Mr. Sullivan. I'd like to go back to asking
23 questions of the witness.

24 MR. SCHARF: Just a question, Mr.
25 Sullivan, are you -- I thought Mr. Sheehan was defending

1 the witness. It seems we have two people interposing
2 objections. I think one is enough.

3 MR. SULLIVAN: Well, then why are you
4 speaking?

5 MR. SCHARF: I'm asking --

6 MS. MICHAEL: Ms. Potzler --

7 MR. SCHARF: I guess we'll both agree
8 that neither you or I will speak.

9 MR. SULLIVAN: Okay. But I -- I guess
10 what I'm pointing out, and Mr. Sheehan is not directly
11 involved in the mediation, so he doesn't have firsthand
12 knowledge of this, but what we're talking about here,
13 discussions are happening in the context of mediation.
14 I do think that we are --

15 MS. MICHAEL: Mr. Sullivan, I think that
16 you're veering into coaching your witness. So I'm going
17 to ask that I can continue asking questions of the
18 witness, and that you simply state your objections for
19 the record.

20 MR. SULLIVAN: Fine.

21 BY MS. MICHAEL:

22 Q All right. Ms. Potzler, you mentioned -- we
23 were discussing Ms. Musialowski, and her involvement in
24 the restructuring efforts. You mentioned that she was
25 on the committee, which took a significant amount of

1 time, of her time, to determine the related entities'
2 contribution to the bankruptcy.

3 Is that committee solely responsible for
4 determining that contribution?

5 A Again --

6 MR. SHEEHAN: Objection, to the extent --
7 objection to any question regarding the composition or
8 the activities of that committee, both to the extent it
9 calls for attorney-client privilege, or any type of
10 mediation privilege in any way. And on the grounds that
11 it's beyond the scope of the subject matter of this
12 deposition.

13 THE WITNESS: So for all those reasons, I
14 can't answer that.

15 BY MS. MICHAEL:

16 Q All right. So for the record, Ms. Potzler,
17 just to clarify, you are not a member of that committee,
18 correct?

19 A Correct.

20 Q Okay. Yet, the committee's composition, and
21 authority, it is your position that you cannot answer
22 questions regarding those issues because of attorney-
23 client privilege?

24 MR. SHEEHAN: And we objected on the
25 grounds of --

1 MS. MICHAEL: I would --

2 MR. SHEEHAN: -- mediation privilege.

3 MS. MICHAEL: -- like Ms. Potzler to
4 answer my question, please.

5 BY MS. MICHAEL:

6 Q Is it your position that you cannot answer my
7 question regarding the composition or authority of that
8 committee on the basis of attorney-client privilege?

9 A I'm going to go with the basis of mediation
10 privilege.

11 Q Okay. So it is your position that, on the
12 basis of mediation privilege, you cannot discuss the
13 composition or authority of the committee that Ms.
14 Musialowski and Mr. Suchan sit on?

15 A Correct.

16 Q How often does that committee meet?

17 A I don't know. I'm not on it.

18 Q Uh-huh. Approximately how many hours per
19 month do those committee members spend doing work for
20 that committee?

21 A That would be pure speculation on my part. I
22 have no idea.

23 Q Is Ms. Musialowski involved in reviewing,
24 preparing, or producing documents?

25 A Financial documents?

1 Q Sorry.

2 A Financial documents?

3 Q Go ahead.

4 A Financial documents, yes, she would be
5 involved in preparing those.

6 Q Is it your belief that Ms. Musialowski would
7 not be able to undertake both the tasks needed to
8 administer the abuse actions to which the Diocese is not
9 a party, and the tasks related to the Diocese
10 restructuring efforts?

11 A Yes.

12 Q And what is the basis of that belief?

13 A I see the -- the time commitments that are
14 involved already. There's -- I don't see how we could
15 possibly add individual lawsuits on top of what anyone
16 at the Diocese is doing, because we are stretched so
17 thin right now.

18 Q Have you ever discussed this with her?

19 A No. Not this specific issue, no.

20 Q Moving to Mr. Scholl Mr. Scholl maintain
21 timesheets or otherwise record his time?

22 A I have no idea.

23 Q Have you spoken to Mr. Scholl regarding his
24 role in administering the abuse actions prior to the
25 bankruptcy?

1 A No, I have not.

2 Q And has Mr. Scholl told you how much time he
3 will have to spend administering abuse actions to which
4 the Diocese is not a party, if those actions are
5 permitted to go forward?

6 MR. SHEEHAN: Objection to form. You can
7 answer, if you know.

8 THE WITNESS: I don't know.

9 BY MS. MICHAEL:

10 Q And has Mr. Scholl told you how much time he
11 would spend?

12 A No.

13 Q And why would Mr. Scholl -- what would Mr.
14 Scholl's responsibilities regarding abuse actions to
15 which the Diocese is not a party be, if the actions are
16 permitted to go forward?

17 A Well, he's responsible for the indemnification
18 of the parishes in any type of action. So he would be
19 involved in every one of them.

20 Q And what do you mean when you say he's
21 responsible for the indemnification of the parishes?

22 A He runs our self-insurance program.

23 Q And what indemnification obligations does the
24 Diocese have to the parishes?

25 MR. SHEEHAN: Objection, to the extent it

1 calls for a legal conclusion. You can answer, if you
2 know.

3 THE WITNESS: I don't know that. You
4 would have to ask Mr. Scholl that.

5 BY MS. MICHAEL:

6 Q And what role does Mr. Scholl currently have,
7 with respect to the Diocese restructuring efforts?

8 A Again, I'm not sure at this point what role he
9 has. He would be brought in, obviously, if there were
10 individual actions against the parishes. At this point,
11 I don't know what role he's playing.

12 Q Is Mr. Scholl involved in the mediations in
13 the Chapter 11 case?

14 A He's not physically present at them. I don't
15 know if he has other roles to play behind the scenes
16 that I don't know about.

17 Q Is it your belief that Mr. Scholl would not be
18 able to undertake both the tasks needed to administer
19 the abuse actions to which the Diocese is not a party,
20 and the tasks he's required to do related to the Diocese
21 restructuring efforts?

22 A I would have to speculate, so I -- I don't
23 think he would be able to do both, but I don't have a
24 basis for that, so that's speculation on my part.

25 Q Other than the individuals we've already

1 discussed, are there any other personnel that would be
2 responsible for administering abuse actions to which the
3 Diocese is not a party?

4 MR. SHEEHAN: Objection to the form.
5 You can answer.

6 THE WITNESS: I -- I mean, there are, you
7 know, clerical roles and secretarial roles and support
8 staff, which would all be heavily involved to some
9 extent.

10 BY MS. MICHAEL:

11 Q And how would they be involved?

12 A Doing their support staff, their -- their --
13 you know, if we need something copied, if we need
14 something -- a letter written, if we need -- you know,
15 what support staff does.

16 Q And approximately how many hours per month do
17 you believe those support staff would have to dedicate
18 to those tasks?

19 A That all depends on what happens with the
20 cases, how far -- I -- I wouldn't know specifically.

21 Q And are any of those support staff also
22 involved in the Diocese reorganization efforts?

23 A To the extent of typing letters, keeping
24 minutes, things like that, yes.

25 Q Approximately how many hours per week do they

1 spend on those reorganization tasks?

2 A Depends on the week. It depends on the issue
3 that's come up. I couldn't qualify or quantify that.

4 Q In what context do those support staff take
5 minutes?

6 A If we have a -- there are certain meetings
7 where the bishop's secretary will go in and take
8 minutes. I'm not sure which ones. I just -- I've seen
9 her do it.

10 Q And those are meetings related to the
11 reorganization?

12 A I don't know. I -- I said I'm not sure which
13 one.

14 MS. MICHAEL: I'm at a good breaking
15 point. I can keep going, but I'm mindful that you all
16 are a hour ahead of me. I don't know if you want to
17 take a break to have some lunch or we -- you want to
18 keep going. Just let me know.

19 MR. SHEEHAN: Do you have a sense of how
20 much time you have for additional questions?

21 MS. MICHAEL: I'm about halfway through
22 my outline, if that --

23 (Witness and Counsel confer.)

24 MR. SULLIVAN: I wouldn't mind a quick
25 break. As long as it's not too long. You know, maybe

1 just enough to grab some food, because you're right,
2 it's 12:43.

3 MS. MICHAEL: So how long are you
4 proposing?

5 MR. SHEEHAN: Would half an hour be
6 possible?

7 MS. MICHAEL: Yes, that works.

8 MR. SHEEHAN: Okay. So we'll come back
9 at 1:15 our time.

10 MS. MICHAEL: Yes.

11 MR. SHEEHAN: Okay. Great. Thank you.

12 THE REPORTER: Okay. The time is now
13 12:43 p.m., Eastern, and we're off the record.

14 (Off the record.)

15 THE REPORTER: The time is now 1:19 p.m.,
16 Eastern, and we're back on the record.

17 You may proceed.

18 MS. MICHAEL: Thank you.

19 BY MS. MICHAEL:

20 Q Ms. Potzler, did you have any discussions with
21 your counsel while we were on break?

22 A Just about lunch.

23 Q Did you guys eat something good?

24 A Yes, we split a turkey wrap. It was very
25 good.

1 Q All right. So, Ms. Potzler, turning back to
2 your declaration, I am going to direct the screen to
3 paragraph 12. Can you see paragraph 12 in front of you
4 now?

5 A Yes.

6 Q Is it your understanding that if abuse actions
7 to which the Diocese is not a party are allowed to
8 proceed, Diocese personnel would likely be deposed?

9 A Yes.

10 Q Which personnel do you believe would be
11 deposed?

12 MR. SHEEHAN: Objection.

13 You can answer, if you know.

14 THE WITNESS: I don't know. I'm just
15 assuming that possibly the bishop, the vicar general,
16 Rich Suchan is the chief operating officer.

17 BY MS. MICHAEL:

18 Q Why do you think they would be deposed?

19 A The vicar general, because, as I said
20 previously, he's taken over some of the roles of
21 Auxiliary Bishop Grosz. Rich Suchan, because he has
22 been so heavily involved in all aspects of these issues.
23 And the bishop, as a member of the board of each parish.

24 Q And do you understand at what stage in abuse
25 actions these diocesan witnesses are likely to be

1 deposed?

2 A I wouldn't have any idea. I don't know.

3 Q Do you understand that no abuse actions have
4 been set for trial?

5 A Yes.

6 Q And is it your understanding that these same
7 individuals would likely be at trial witnesses?

8 MR. SHEEHAN: Objection to form.

9 You can answer, if you know.

10 THE WITNESS: I don't know. I don't know
11 how that would play out.

12 BY MS. MICHAEL:

13 Q Are there any other diocesan personnel that
14 you believe may be deposed in abuse actions?

15 A I would think John Scholl may be. Possibly
16 our chief financial officer; probably not, but possibly.
17 I'm sure there are others, I just -- I wouldn't know who
18 else.

19 Q And why do you think Mr. Scholl would be
20 deposed?

21 A For the insurance -- self-insurance program
22 and the indemnification that may occur.

23 Q And why do you think the chief financial
24 officer would be deposed?

25 A Just because she's heavily involved with the

1 insurance program as well, so I'm just guessing that
2 they might need to speak with her.

3 Q And in what context would the insurance
4 program come up in the abuse action?

5 MR. SHEEHAN: Objection.

6 You can answer.

7 THE WITNESS: I'm assuming it would come
8 up based on the -- the fact that we're a self-insured
9 program and that we indemnify the individual parishes
10 against legal actions.

11 BY MS. MICHAEL:

12 Q And when you say you indemnify the parishes,
13 is there a contract that requires the Diocese to
14 indemnify the parishes?

15 A That would be --

16 MR. SHEEHAN: Objection. Calls for legal
17 conclusion.

18 You can answer, if you know.

19 THE WITNESS: I don't know.

20 BY MS. MICHAEL:

21 Q Have you ever seen a contract that would
22 require the Diocese to indemnify the parishes?

23 A No.

24 Q In your experience, would someone in your role
25 typically have seen a contract that obligates the

1 Diocese to indemnify another party?

2 MR. SHEEHAN: Objection. Calls for
3 speculation.

4 You can answer if you know.

5 THE WITNESS: I don't know. I don't know
6 if every other Diocese has in-house counsel, so I don't
7 know how it works. I've only been in this position a
8 year, so.

9 BY MS. MICHAEL:

10 Q Do you typically review contracts that
11 obligate the Diocese in relationships with other
12 entities?

13 A I do, frequently. Not all the time. And
14 those are more likely new contracts that we are dealing
15 with that I would review.

16 Q So, as part of your role, did you ever review
17 legacy contracts regarding the Diocese legal
18 obligations?

19 MR. SHEEHAN: Objection. Based on the
20 question calls for attorney-client privilege. I
21 instruct not to answer. If you can do so without
22 divulging such information, you can answer.

23 THE WITNESS: As I stated in the past, I
24 have reviewed lease contracts. So, yes, to that extent.
25 And then I've also -- I'm sorry. I've also reviewed

1 contracts with vendors that we are currently employing.

2 BY MS. MICHAEL:

3 Q And going back to what we were discussing
4 before, if Mr. Scholl or the CFO were to testify in
5 abuse actions, you believe this would be due to their
6 knowledge of the insurance program, correct?

7 A Yeah, that's what I assume. I don't know that
8 for a fact. That's -- you know, there may be other
9 issues that they would have to testify regarding.

10 Q And what other issues might those be?

11 A I just said there may be. I don't know.

12 Q Moving to paragraph 13. Can you now see
13 paragraph 13 --

14 A Yeah.

15 Q -- at least the beginning of it?

16 A Well, I could for a minute. Hold on.

17 MR. SHEEHAN: Yeah. Could we give the
18 moment -- the witness a moment to read this paragraph?

19 MS. MICHAEL: Sure.

20 MR. SHEEHAN: Let me know when you're
21 ready for this half.

22 THE WITNESS: Okay. Okay. I'm ready.

23 MR. SHEEHAN: Okay. Thank you.

24 THE WITNESS: Okay. Ready to proceed.

25 BY MS. MICHAEL:

1 Q In paragraph 13 of your declaration, you refer
2 to the risk of collateral estoppel. What is your basis
3 -- what is the basis for your understanding of the risk
4 of collateral estoppel?

5 A If there are factual issues that are
6 adjudicated during one of the state court actions, that
7 could have consequences regarding the Diocese itself.
8 Whether or not it's -- whether or not there was
9 knowledge, whether or not something is covered by
10 insurance, there are various issues that could be
11 factually asserted that would have a negative effect on
12 the Diocesan cases.

13 Q And what is the basis of your understanding of
14 the risk of adverse precedent?

15 A Well, if we have a ruling in one of the state
16 court cases, it's going to naturally affect any future
17 ruling on the same issues in the bankruptcy case.

18 Q In what way would it affect the same issue in
19 the bankruptcy case?

20 MR. SHEEHAN: Objection. Calls for a
21 conclusion.

22 You can answer, if you know.

23 THE WITNESS: I don't know. I mean,
24 that's -- that would be speculating on my part.

25 BY MS. MICHAEL:

1 Q And what is the basis for your understanding
2 of the risk of vicarious liability?

3 A If we -- if in the state court actions, they
4 find that the -- the Diocese was also at fault, then we
5 would wind up vicariously liable for the actions in the
6 individual state court actions.

7 Q And what is your basis for your understanding
8 of the -- what is the basis for your understanding of
9 the risk of imputed admissions?

10 A Once again, if something is admitted, as far
11 as a state court case, and it can be transferred on, for
12 lack of a better word, to the diocesan cases.

13 Q And can you please explain how the Diocese can
14 have collateral estoppel risk from an action to which it
15 is not a party?

16 MR. SHEEHAN: Objection. Calls for legal
17 conclusion.

18 You can answer, if you know.

19 THE WITNESS: I can't answer that.

20 BY MS. MICHAEL:

21 Q And can you please explain how the Diocese can
22 have adverse precedent risk from an action to which it
23 is not a party?

24 MR. SHEEHAN: Objection. Calls for legal
25 conclusion.

1 You can answer, if you know.

2 THE WITNESS: Nope. Can't answer that.

3 BY MS. MICHAEL:

4 Q Can you please explain how the Diocese can
5 have vicarious liability risk from an action to which it
6 is not a party?

7 A No.

8 Q And can you please explain how the Diocese can
9 have imputed admissions risk from an action to which it
10 is not a party?

11 MR. SHEEHAN: Objection. Calls for legal
12 conclusion.

13 You can answer, if you know.

14 THE WITNESS: No.

15 BY MS. MICHAEL:

16 Q Can you please explain how the bishop or other
17 diocesan employees testimony could have a direct impact
18 on the liability or value of identical claims asserted
19 in the Chapter 11 case?

20 MR. SHEEHAN: Objection to form.

21 You can answer, if you know.

22 THE WITNESS: Yeah. I -- could you
23 please restate that?

24 BY MS. MICHAEL:

25 Q Sure. In your declaration, you state that the

1 bishop or other diocesan employees testimony could have
2 a direct impact on the viability and value of identical
3 claims asserted in the Chapter 11 case. Can you please
4 explain how?

5 A Well, if -- if someone testifies, they're --
6 they're -- you know, it's going to be on the record, so
7 that can be used in future cases against the Diocese.

8 Q How could it be used?

9 MR. SHEEHAN: Objection. Calls for legal
10 conclusion.

11 You can answer, if you know.

12 THE WITNESS: I -- I don't know if -- I
13 don't know how to answer that.

14 BY MS. MICHAEL:

15 Q Except for the example of diocesan employees
16 testimony, are there any other examples of imputed
17 admissions, vicarious liability, adverse precedent, or
18 collateral estoppel that could be used against the
19 Diocese in the Chapter 11 case?

20 MR. SHEEHAN: Objection to form.

21 You can answer, if you know.

22 THE WITNESS: I don't know.

23 BY MS. MICHAEL:

24 Q Except for those related to insurance
25 coverage, are there any examples of adverse findings or

1 determinations that could result from the abuse actions?

2 MR. SHEEHAN: Objection to form.

3 You can answer, if you know.

4 THE WITNESS: I would be speculating, so
5 I don't know.

6 BY MS. MICHAEL:

7 Q To your knowledge, has the Diocese ever been
8 found liable as a result of a state court judgment
9 against one of its parishes where the Diocese was not a
10 party to that action?

11 A I don't know.

12 Q Are you aware of any instances in which
13 collateral estoppel or res judicata has been applied to
14 the Diocese when it was not a party to the original
15 action?

16 A I'm not aware of any.

17 Q All right. Moving to paragraph 16. In
18 paragraph 16 --

19 MR. SHEEHAN: Sorry, could we take a
20 moment and allow the witness to read this paragraph,
21 please?

22 MS. MICHAEL: Sure. I'm going to ask
23 specific questions, not about the whole paragraph, but I
24 was going to ask questions about the sentences. But if
25 you'd like to read the whole paragraph first, that's

1 fine.

2 MR. SHEEHAN: Yes, if we could, just
3 briefly.

4 MR. SULLIVAN: Take your time.

5 THE WITNESS: Okay. I'm ready.

6 BY MS. MICHAEL:

7 Q At the beginning of the paragraph, you state
8 that the parishes understand their contributions are
9 earmarked for, "(i) the purchase of policies of
10 insurance covering the Diocese and the Related Entities
11 as co-insured and (ii) the payment of any defense costs
12 and claims for losses that are subject to a deductible
13 or self-insured retention before coverage under the
14 shared insurance policies becomes available."

15 What is your basis for that statement?

16 A Well, I -- that's what I was told when I asked
17 how our -- the self-insured policy works, that's what
18 was told to me.

19 Q And who told you that?

20 A Actually, I asked that a long time ago, so I
21 don't remember my original basis for that knowledge.
22 But in context of this, John Scholl has told me that.

23 Q And earmarked can be a legal expression. Is
24 that how you were using it here?

25 A No, I -- I wouldn't say it was used as a legal

1 expression here.

2 Q What does the term earmarked mean to you?

3 A That it is set aside specifically for those
4 purposes and only those purposes.

5 Q Are there any documents that support the
6 parish's understanding that you describe in the
7 statement?

8 A I wouldn't be privy to that.

9 Q Do you understand that the parish's will --
10 the parish's contribution will be sufficient to cover
11 the premiums needed to purchase the policies and payment
12 of defense and losses not covered by insurance?

13 A I wouldn't know that.

14 MR. SHEEHAN: Objection to form.

15 You can answer.

16 THE WITNESS: Sorry. I don't know.

17 BY MS. MICHAEL:

18 Q Are there any contracts between the Diocese
19 and any related entities regarding the use of their
20 contributions?

21 MR. SHEEHAN: Objection. Calls for legal
22 conclusion.

23 You can answer, if you know.

24 THE WITNESS: I don't know.

25 BY MS. MICHAEL:

1 Q In the statement, you say, "some of the
2 policies have self-insured retentions and deductibles."
3 Which policies are those?

4 A I don't know. That's what I was told.

5 Q And who told you that?

6 A That's been a while. I -- probably John
7 Scholl, but I'm not sure.

8 Q And how much are the self-insured retentions?

9 A I don't know.

10 Q And how much are the deductibles?

11 A I don't know.

12 Q Are there any aggregates?

13 A That's well beyond my scope of employment.

14 Q Turning to paragraph 19. I'll pause so you
15 can read.

16 MR. SHEEHAN: I'm so sorry. Which
17 paragraph?

18 MS. MICHAEL: Nineteen.

19 MR. SHEEHAN: Okay. Take a moment to
20 read.

21 THE WITNESS: Okay.

22 BY MS. MICHAEL:

23 Q You say, "reserves (sic) will be quickly
24 dissipated if the preliminary injunction isn't granted."
25 How quickly?

1 MR. SHEEHAN: Objection to form.

2 You can answer, if you know.

3 THE WITNESS: I don't, and it depends on
4 which cases go forward and at what point, so I -- I
5 wouldn't be able to answer about that.

6 BY MS. MICHAEL:

7 Q If the cases that do not name the Diocese as a
8 defendant and do not implicate the Catholic Mutual and
9 National Catholic --

10 MS. MICHAEL: -- Iain, if you want to
11 jump in here with the full name of that --

12 BY MS. MICHAEL:

13 Q -- insurance policies are the ones that go
14 forward, then how quickly will those reserves be
15 dissipated?

16 A Again, that's --

17 MR. SHEEHAN: Objection to form.

18 You can answer, if you know.

19 THE WITNESS: I don't know. That's
20 beyond my scope of employment.

21 BY MS. MICHAEL:

22 Q So for paragraph 19, are your statements here
23 just based on what you've been told by Mr. Scholl and
24 others?

25 A Not entirely, because I know how much money we

1 have in there, and I know how much defense costs would
2 be, roughly. So it's pretty self-explanatory.

3 Q How much would defense costs be?

4 A I meant in the aggregate, what they would be.
5 Defending a matter such as this would be much worse than
6 defending a matter like a -- a personal injury matter,
7 which costs us roughly 12 grand per case for defense
8 costs.

9 Q And what is your basis for your conclusion
10 that abuse actions would be greater defense costs than
11 the ones you're comparing them to?

12 A Well, these are not, you know, typical slip
13 and falls, where it's routine, mundane, run of the mill
14 type of action. This is much more detailed -- much more
15 detailed and much more time consuming. Attorneys fees
16 would be much greater.

17 Q What aspects of it make it more detailed?

18 A All of --

19 MR. SHEEHAN: Objection to form.

20 You can answer.

21 THE WITNESS: All of the -- the different
22 players involved. All of the different considerations
23 that have to be made. All of the different people that
24 may be called to testify.

25 BY MS. MICHAEL:

1 Q Who are the different players involved?

2 A Well, it depends --

3 Q As opposed to --

4 A That depends on the case.

5 Q And who are the different -- what are the
6 different details involved as opposed to a slip and
7 fall?

8 A Well, a slip and fall is pretty run of the
9 mill. These are, you know, actions that affected
10 several people. It's not just one claimant. It's --
11 that's hard to state. But it's -- obviously the legal
12 issues are much more in detail. The coverage issues are
13 much more detailed.

14 Q What aspects of the legal issues make them
15 much more detailed?

16 MR. SHEEHAN: Objection. Form.

17 You can answer.

18 THE WITNESS: That would call for
19 speculation on my part.

20 BY MS. MICHAEL:

21 Q What aspects of the insurance make it much
22 more detailed?

23 A The --

24 MR. SHEEHAN: Objection to form.

25 You can answer.

1 THE WITNESS: The fact that we're self-
2 insured. There are questions about coverage, that type
3 of thing.

4 BY MS. MICHAEL:

5 Q Is the coverage different? Are you self-
6 insured for slip and falls?

7 A That's beyond my scope of employment.

8 Q Okay. And have you ever -- do you have any
9 experience in defending abuse actions?

10 A No.

11 Q And going back to paragraph 16. I'll bring
12 that -- is paragraph 16 based on your personal knowledge
13 or knowledge -- or purely information you were told?

14 MR. SHEEHAN: You need to read the
15 paragraph again?

16 THE WITNESS: No. It -- I mean, it
17 depends on what aspect you're talking about.

18 BY MS. MICHAEL:

19 Q Which aspects of paragraph 16 are based on
20 your personal knowledge?

21 A Well, I -- as I said before, I talked about
22 this months ago, before this ever came up. So some of
23 it's based on my personal knowledge. The 10.9 million
24 is based on my personal knowledge. Let's see. And then
25 just conversations I've had in the past about how the

1 self-insurance program works. I'm looking. So, you
2 know, some of it is conversations that I've had, you
3 know, a year ago when I was starting the job and
4 learning. So I don't know specifically. The 10.9
5 million figure itself, I -- I asked specifically the
6 chief financial officer for that number. So that was
7 told to me by her. Otherwise, it's just stuff I've
8 accumulated over the past year.

9 MS. MICHAEL: And for the record, and I
10 apologize again, this is a new platform for me. Who
11 added the underline to the sentence with the 10.9
12 million?

13 THE WITNESS: No idea.

14 MR. SHEEHAN: It was not us.

15 MR. KRELL: I did it by accident. I
16 didn't know everyone could see that. I was just
17 scrolling the document. I don't know how to undo it.

18 MS. MICHAEL: Okay. I just -- I was
19 curious where it came from.

20 MR. KRELL: It was an accident. Don't
21 know how I did it. My apologies. And I don't know how
22 to undo it.

23 MS. MICHAEL: That's fine.

24 All right. I'm going to turn now to the
25 Diocese's responses to the committee's first set of

1 interrogatories. I'd like to mark this as Exhibit 2.

2 (Exhibit 2 marked for identification.)

3 MS. MICHAEL: Thank you.

4 BY MS. MICHAEL:

5 Q Ms. Potzler, did you review the Diocese's
6 responses to the committee's first set of
7 interrogatories in conjunction with the supplementary
8 injunction motion?

9 A Yes.

10 Q And turning to page 16, Ms. Potzler, is that
11 your signature --

12 A Yes.

13 Q -- verifying the truth and accuracy of this
14 document?

15 A Yes.

16 Q Ms. Potzler, are you prepared to testify
17 regarding the discovery responses?

18 A Yes.

19 MR. SHEEHAN: Just to clarify for the
20 record, it's regarding accuracy according to the best of
21 her knowledge, information and belief for the document.

22 MS. MICHAEL: Understood.

23 BY MS. MICHAEL:

24 Q Ms. Potzler, were you involved in the
25 preparation of the responses?

1 A No. Not specifically, no.

2 Q What was your involvement, if at all?

3 MR. SHEEHAN: Objection to the extent
4 answering would call for attorney client-privilege. I
5 instruct her not to answer.

6 If you can answer without divulging that
7 information, you can do so.

8 THE WITNESS: Yeah, I can't answer that.

9 BY MS. MICHAEL:

10 Q Okay. Did you review this document prior to
11 signing it?

12 A I did.

13 Q Did you provide any comments on this document
14 prior to signing it?

15 MR. SHEEHAN: Objection to the extent
16 answering the question would call for attorney-client
17 privilege.

18 I instruct you not to answer. If you can
19 do so without divulging that information, you can do so.

20 THE WITNESS: I cannot answer that.

21 BY MS. MICHAEL:

22 Q Who else was involved in preparing this
23 document?

24 MR. SHEEHAN: Objection to the extent
25 answering the question would call for attorney-client

1 privilege.

2 I instruct you not to answer. If you can
3 do so without divulging that information, you can do so.

4 THE WITNESS: I cannot answer that.

5 BY MS. MICHAEL:

6 Q So to clarify for the record, you cannot
7 describe who was involved in preparing the Diocese
8 discovery responses on the basis of attorney-client
9 privilege?

10 A Correct.

11 Q Turning to Interrogatory No. 9. I'll give you
12 a moment to review the interrogatory and the response.

13 A Okay.

14 Q In the interrogatory response, it refers to
15 the -- it, "refers the Committee to the complaints filed
16 in the Abuse Actions and the proofs of claim filed by
17 Abuse Claimants, all or most of which assert common
18 questions of law and fact against the Diocese and the
19 Related Entities, as well as to proofs of claims" --
20 "proofs of claim filed by the Related Entities."

21 Can you please describe how those documents
22 support your contention that the Diocese risks
23 indemnification liability if the abuse actions are
24 prosecuted?

25 MR. SHEEHAN: Objection.

1 You can answer, if you know.

2 THE WITNESS: I don't know, and I'm not
3 exactly sure what documents you're referring to.

4 BY MS. MICHAEL:

5 Q The documents that you referred to in the
6 response. You say, "the complaints filed in the abuse
7 actions and the proofs of claim filed by abuse
8 claimants. As well as the proofs of claim filed by
9 Related Entities."

10 A I'm sorry. There -- there are similar issues
11 of fact regarding the knowledge, regarding coverage, in
12 all of these cases.

13 Q And how do those similar issues of fact create
14 a risk of indemnification liability for the Diocese?

15 A Well, if in the state court action, you know,
16 we are found liable, then it's going to flow over to the
17 Diocese for indemnification for the parishes.

18 Q Are there any other facts that support the
19 Diocese potential risk of indemnification liability?

20 MR. SHEEHAN: Objection.

21 You can answer.

22 THE WITNESS: I don't know at this point.

23 BY MS. MICHAEL:

24 Q Are there any other documents that support the
25 alleged risk of indemnification liability?

1 A I --

2 MR. SHEEHAN: Objection to form.

3 You can answer.

4 THE WITNESS: I don't know.

5 MS. MICHAEL: Turning now to
6 Interrogatory No. 11. I will pause and give you a
7 moment to read the interrogatory and response.

8 THE WITNESS: Okay.

9 BY MS. MICHAEL:

10 Q This interrogatory response similarly refers
11 the committee to the complaints and proofs of claim as
12 support for the assertion, "that the Diocese risks res
13 judicata based on decisions in the Abuse Actions to
14 which the Diocese is not a party."

15 How do those documents support that
16 contention?

17 A If --

18 MR. SHEEHAN: Objection.

19 You can answer.

20 THE WITNESS: In the state court actions,
21 if there's a finding of law, that would be adverse to
22 our diocesan cases because so many of the complaints
23 filed in state court and the proofs of claims raise the
24 same issues of law. There's a real risk that it would
25 be detrimental to the Diocese and to reaching a

1 satisfactory conclusion in the reorganization.

2 BY MS. MICHAEL:

3 Q Are there any other facts that support that
4 contention?

5 MR. SHEEHAN: Objection. Form.

6 You can answer.

7 THE WITNESS: At this point, no.

8 BY MS. MICHAEL:

9 Q Are there any --

10 A Not that I'm aware of.

11 Q Are there any other documents that support
12 that contention?

13 A Not that I'm aware of.

14 Q Turning now to Interrogatory Number 12. I'll
15 give you a moment to read the interrogatory and
16 response.

17 A Okay.

18 Q The -- this interrogatory also, "refers the
19 Committee to the complaints and proofs of claim as
20 support for the assertion that the Diocese risks a
21 finding of issue preclusion based on the decisions and
22 the Abuse Actions to which the Diocese is not a party."

23 How do those documents support that
24 contention?

25 A In the same way as I answered previously, if

1 there is a finding in the state court, it's obviously
2 going to affect the diocesan case.

3 Q Are there any other facts that support that
4 contention?

5 MR. SHEEHAN: Objection to form.

6 You can answer.

7 THE WITNESS: I don't know.

8 BY MS. MICHAEL:

9 Q Are there any other documents that support
10 that contention?

11 A I don't know.

12 Q The motion discusses piecemeal litigation and
13 inconsistent judgments. Your declaration does not
14 mention piecemeal litigation or inconsistent judgments.
15 Are those issues that you have knowledge about?

16 A To an extent, yes.

17 Q Can you explain the meaning of piecemeal
18 litigation as that term is used in the motion?

19 A I am not the one that wrote that, but if we
20 have a ruling in one court that is directly opposed to a
21 ruling in a separate court, you know, obviously there's
22 going to be a problem with the competing rulings.

23 Q And what would the problem be?

24 A When it comes to the diocesan case we're going
25 to have to show, well, this court held this way, this

1 court held this way, now we have to settle the answer
2 all over again. We're duplicating our efforts; that
3 type of thing.

4 Q Can you explain how the abuse actions that do
5 not name the Diocese and only seek a judgment based on
6 the acts and omissions of non-debtors involve common
7 questions of law and fact with claims against the
8 Diocese based on its own acts and omissions?

9 MR. SHEEHAN: Objection.

10 You can answer, if you know.

11 THE WITNESS: I don't know.

12 BY MS. MICHAEL:

13 Q Can you identify what common questions of law
14 are implicated in both the abuse actions and the proofs
15 of claim in the bankruptcy?

16 MR. SHEEHAN: Objection.

17 You can answer, if you know.

18 THE WITNESS: Not at this point in time.

19 BY MS. MICHAEL:

20 Q Was there a point in time when you could
21 identify those?

22 A No.

23 Q Can you identify what common questions of fact
24 are implicated in the proofs of claim and the abuse
25 actions?

1 A To the extent that there are questions of
2 indemnification, there are questions of knowledge on the
3 part of the Diocese and the parishes themselves. There
4 are questions as to when something was reported and who
5 know -- who knew what at what point. Those types of
6 issues.

7 Q Can you clarify what you mean when you say
8 questions of indemnification?

9 A With the self-insurance program. We would
10 have to -- the Diocese would have to use that to
11 indemnify the parishes against any possible outcomes.
12 And then there is also the risk that insurance companies
13 could start disclaiming claims.

14 Q At what stage in an abuse action would
15 questions about indemnification arise?

16 A That's not my field of law. I don't know.

17 Q You mentioned common questions of fact about
18 who knew what. Who's the who you're referring to there?

19 A Whether or not --

20 MR. SHEEHAN: Objection.

21 THE WITNESS: Sorry.

22 MR. SHEEHAN: You can answer.

23 THE WITNESS: I meant whether or not the
24 Diocese was aware of the abuse. Whether the parish
25 itself was aware of the abuse.

1 BY MS. MICHAEL:

2 Q Would those be the same question? Whether the
3 Diocese knew or the parish knew?

4 A Well, if the -- that brings up the question of
5 coverage and indemnification again, so.

6 Q How?

7 A If the Diocese was aware and did nothing, then
8 we'd be liable. And if the parish did not report to the
9 Diocese, then there's a problem with coverage.

10 Q You said then you'd be liable, but not in an
11 action in which the Diocese is not a named party,
12 correct?

13 MR. SHEEHAN: Objection.

14 You can answer.

15 THE WITNESS: I meant as far as
16 indemnification.

17 BY MS. MICHAEL:

18 Q Beyond indemnification questions in the state
19 court actions, if the Diocese is not a party, is there a
20 common question of fact regarding who knew what?

21 MR. SHEEHAN: Objection.

22 You can answer, if you know.

23 THE WITNESS: I'm just assuming again.

24 But, yeah, there would be common questions in all of the
25 cases.

1 MR. SHEEHAN: That's her question. A
2 common question with what?

3 MS. MICHAEL: I'm sorry, can you repeat
4 your question?

5 MR. SHEEHAN: I was trying to clarify
6 your prior question. Yes, there are common questions in
7 the actions in which Diocese is not named. And I was
8 asking, a common question with what? Meaning with this
9 statement or claim -- by that claim -- the question was
10 not clear, so --

11 BY MS. MICHAEL:

12 Q My question, as written in this speech-to-text
13 function, was, is there a common question of fact
14 regarding who knew what?

15 MR. SHEEHAN: Objection to form.

16 You can answer, if you know.

17 THE WITNESS: I don't know.

18 BY MS. MICHAEL:

19 Q If the -- if one parish is found liable to
20 Plaintiff A for a large sum and a defense verdict is
21 entered for Plaintiff B, each arising from separate
22 instances of abuse, do you view those as inconsistent
23 judgments?

24 MR. SHEEHAN: Objection.

25 You can answer, if you know.

1 THE WITNESS: No, I can't answer that.

2 BY MS. MICHAEL:

3 Q Do you agree that fact finders may reach
4 different conclusions based on different facts in cases?

5 A Yes.

6 Q Do you agree that the acts of abuse are not
7 uniform across all 800 plus cases?

8 A Yes.

9 Q To the extent there is piecemeal litigation
10 against non-debtor parties, what is the burden that
11 creates on the bankruptcy estate?

12 A We would have to defend. So there'd be the
13 indemnification. We have to pay the defense costs. The
14 further legal costs are depleting the reserves that we
15 have to do a just and equitable distribution to the
16 actual complainants.

17 Q I understand those are the issues you've
18 raised about the litigation going forward, generally.
19 My specific question is, to the extent there's piecemeal
20 litigation, the example you gave earlier of one court
21 ruling one thing and another court ruling another, what
22 is the impact of that on the bankruptcy estate?

23 MR. SHEEHAN: Objection to form.

24 You can answer, if you know.

25 THE WITNESS: Then the issue would have

1 to be re-adjudicated if we wind up -- you know, in our
2 settlement options, if there's two disparaging rulings,
3 a conclusion would have to be made as to the correct one
4 in the bankruptcy settlement.

5 MS. MICHAEL: All right. I'd like to
6 take a brief, let's say 10-minute break, just to go over
7 my notes. I'm at the end of my planned questions. I'd
8 just like to go over my notes to see if there's any
9 cleanup questions I need to ask.

10 MR. SHEEHAN: Sure.

11 MR. SULLIVAN: Yes. You said a 10?

12 MS. MICHAEL: Yeah. Reconvene at 2:15
13 your time?

14 MR. SULLIVAN: That sounds fine.

15 THE REPORTER: Okay. The time is now
16 2:02 p.m., Eastern, and we're off the record.

17 (Off the record.)

18 THE REPORTER: The time is now 2:14 p.m.,
19 Eastern, and we're back on the record.

20 You may proceed.

21 MS. MICHAEL: Just a few final questions.

22 BY MS. MICHAEL:

23 Q Ms. Potzler, when you use the word
24 indemnification, do you mean the obligation of the self-
25 insured program to pay defense costs and liability of

1 any self-insured program participants, including the
2 Diocese?

3 A Correct.

4 Q And have you reviewed the proofs of claim that
5 the parishes and other related entities filed in the
6 Chapter 11 bankruptcy?

7 A Not all 800 of them, but many of them, yes.

8 Q Just to clarify, the proofs of claim that were
9 filed by the parishes and related entities, not the
10 abused claimants?

11 A No, I have not.

12 MS. MICHAEL: All right. That is all of
13 the questions that I have. We'd like to establish a
14 time for Ms. Potzler to review the transcript and sign
15 it, after which we can use the unsigned version if we
16 have not received a signed version back. Does a week
17 from today work?

18 MR. SHEEHAN: I guess the question is,
19 when will we receive the transcript?

20 THE REPORTER: So for the transcript, we
21 can try to get it to you as soon as possible. When are
22 you expecting it by?

23 MS. MICHAEL: Tomorrow.

24 THE REPORTER: Ms. Michael, when are you
25 -- tomorrow?

1 MS. MICHAEL: Yes.

2 THE REPORTER: Okay. I believe we can
3 get it to you by tomorrow. We'll have a rough draft
4 that you'll be able to download within a couple of
5 hours, but we'll try to get it to you as soon as
6 possible. I believe we can get it to you by tomorrow,
7 but not 100 percent. I can have the office reach out to
8 you with more information regarding that, but we will
9 definitely get it to you ASAP.

10 MS. MICHAEL: Sure. Just to clarify, our
11 discussions were whether we needed it today or if
12 tomorrow was okay, and we had said tomorrow was okay.

13 THE REPORTER: Okay. It won't be
14 available today. I know that. It most likely will be
15 available tomorrow.

16 (Witness and Counsel confer.)

17 MR. SHEEHAN: Brittany, I think that's
18 probably workable. You're suggesting next Wednesday?

19 MS. MICHAEL: Yes.

20 MR. SHEEHAN: Yeah, I think we can do
21 that. As long as the transcript is available by the end
22 of the day tomorrow, that should be work.

23 MS. MICHAEL: We can -- if it's not
24 available, we can give an extra day. But I'm assuming
25 you're going to want this done before Thanksgiving

1 either way. But if you need that extra day, if the
2 transcript takes an extra day, that's fine with us too.

3 MR. SHEEHAN: Sure. Understood. Thank
4 you.

5 THE REPORTER: Okay. And the time is now
6 2:17 p.m., Eastern, and we're off the record.

7 (Proceedings concluded at 2:17 p.m.)

8 (Read and Sign requested.)

9 * * * * *

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1 CERTIFICATE OF NOTARY PUBLIC

2

3 State of Ohio)

4 County of Summit)

5

6 I hereby certify that on the 15th day of November
7 2023, before me, a RON notary public for the State of
8 Ohio, MELISSA POTZLER, remotely appeared via
9 videoconference, and prior to testifying, swore an oath,
10 to tell the truth.

11

12 DATED this 15th day of November 2023.

13

14 /s/

15

16 Sarah Schroeter

17 RON Notary Public, State of Ohio

18 Commission No.: 2020-RE-823171

19 Commission Expiration: 11/29/2025

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CERTIFICATE OF REPORTER

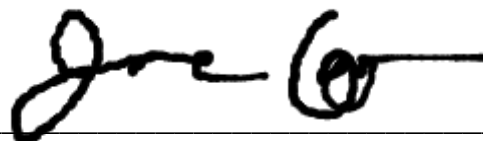
I, Jamie Godinez, hereby certify:

That the foregoing proceedings were taken
before me at the time and place therein set forth;

That the proceedings were recorded by me and
thereafter formatted into a full, true, and correct
transcript of same;

I further certify that I am neither counsel
for nor related to any parties to said action, nor in
any way interested in the outcome thereof.

DATED, this 15th day of November 2023.

A handwritten signature in black ink, appearing to read 'J. Godinez', is written over a horizontal line.

Jamie Godinez, CER-1260

Certified Electronic Reporter

1 A C K N O W L E D G E M E N T

2

3 I do hereby certify that having been first
4 duly sworn to testify to the truth, I gave the above
5 testimony on November 15, 2023.

6

7 I further certify that the foregoing
8 transcript is a true and correct transcript of the
9 testimony given by me at the time and place specified.

10

11

12

13

MELISSA POTZLER

14

15 Sworn to before me this ____ day of _____, 20__

16

17

18

19 Notary Public

20

21

22

23

24

25

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